by forty ambitious, covetous Tyrants, arrogating to themselves to be a Councel of State, and designed to supply the roome of Parliaments, under what name or title soever they shall maske themselves.

See the Stat. of Recognition 1. *Jac.* and the Oathes of Allegiance, Obedience, and Supremacy.

6. We will not submit our selves to a Military Government, or Councell of Officers.

7. We must and will have a KING, and the KING whom the Lawes of God and this Land have Designed to us, we being by the Oathes of Allegiance, Obedience, and Supremacy sworn to beare faith and true Allegiance to King CHARLES the first his lawfull Heyres and Successors.

Hic telum infigam, moriarque in vulnere —

Postscript.

1 READER, at the latter end of my first part of *The History of Independency*, I have presented to thy consideration, some Generall Conclusions arising out of the Premises; the same Conclusions do as naturally arise out of the premises of this second part of the History: and doe as aptly serve to illustrate this Second, as that First part; wherefore to that First part I send thee for opening thy understanding.

2 When our Lawes run againe into their Ancient Channel, and the Sword of Murder is sheathed, and the Sword of Justice drawne; the Author engageth to publish his Name and Apologie, and shew what he hath done and suffered for the Parliament and Kingdome.

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THE HIGH COVRT OF JUSTICE; OR CROMVVELLS New Slaughter House in ENGLAND,

With the Authority that constituted and ordained it.

Arraigned, Convicted and Condemned.

FOR

Usurpation, Treason, Tiranny, Theft and Murder.

Being the III. Part of the History of Independency, written by the same Author.

Printed *Anno Domini* 1651, *In the* second Yeare *of the* States Liberty *and the* Peoples Slavery.

Plin. Paneg. ad Trajanum,

Olim criminibus, jam legibus laboratur: & metuendum est, ne legibus fundata Respublica, sit legibus eversa.

Isaiah 59. vers. 3, 4.

Your hands are defiled with blood, and your fingers with iniquity, your lips have spoken lies, your tongues have muttered perverſnes. None calleth for Juſtice nor any pleadeth for truth; they truſt in vanity and ſpeak lies, they conceive Meſchiefe and bring forth Iniquity.

Vers. 7.

Their feet runne to evill, and they make haſte to ſhed innocent bloud: their thoughts are thoughts of iniquity, waſting and deſtruction are in their pathes. The way of peace they know not, and there is no judgement in their goings.

Vers. 11.

Wee look for Judgement, but their is none: For ſalvation but it is farr from us.

Vers. 14.

Judgement is turned away backward, and Juſtice ſtandeth a farre off: for truth is fallen in the ſtreets, and Equity cannot enter.

THat every thing is kept and maintained by the same waies and means it was got and obtained, is a rule true both in Philosophy and Policy. And therefore Dominion gotten by fraud and force, must by fraud and force be preserveed. Things impiously got, must be impiously kept. When usurped Tiranny laies its foundation in bloud, the whole Superstruction must be built with Morter tempered with bloud. One Sinne must defend and make good another. And hence ariseth a Necessity upon Ambitious men to slancke and fortify one Crime with another. But to pleade this Necessity, which they have so willfully drawne upon themselves, in justification of their wicked Courses, To expect submission, Obedience and an equall Engagement from men uninteressed therein, and to intitle the Divine Providence and unrevealed will of God thereto (in opposition to his will revealed and declared in the Scriptures, as is now a daies used) is to accuse the Holy Ghost of our Sinnes, and an hipocrisy so impudently sinfull and damnable, that I doubt no age but this, (the Dregs and lees of time) ever gave an example of the like.

Vnumquodque conservatur eodem modo quo fit.

TO illustrate my first Maxime by some forreine Examples (before I lay the Baskard at our owne Doores) Sylla at Rome, by the power of the Sword, *proclaimed* (or voted) *himselfe Dictator: to make good which usurpation with a Make of Authority, he compelled the Senate* (or Parliament) *to approve of all his fore passed villanies*, Murders and illegall Actes, *and to conferre a*

power upon him; To kill whom he pleased & confiscate their Estates; To build and destroy Cities; Dispose Kingdomes; *And exercise an Arbitrary, Supreme Authority, and then (to establish himselfe in his selfe-created power) he posted up at Rome, and in most Cities of Italy, Bills of Proscription or Outlawry, conteining the names of such Persons, as (without any forme of Lawe or Justice) he appointed to be slaine* by his Souldiers. *These Proscribed men were (for the most part) such as having some Sparks of Roman virtue in them, durst love the Auntient Government, Lawes and Liberties of Rome, and were therfore thought fit to be weeded out, as Malignants against his Innovations & Arbitrary courses.* Yet many meane spirited fellowes, were proscribed and murdered, partly for confiscation of their Estates, and partly to gratify the Malice and hatred of particular friends who (in that carnage) praid in aid of Syllas sword to rid them of their Enemies.

After this Augustus Cæsar at Rome, having by terror of Armes made himselfe Consul, and finding himselfe not strong enough singly to subjugate his Country, he called Antonius and Lepidus to joine with him, with whome entering into confederacy to subvert the Fundamentall Government, and usurpe the Supreme Authority, They divide that vaste Empire between them, and *passed a Decree amongst themselves; That they should be called the Triumvirate for Reforming and Reestablishing the Commonwealth* (well enough before if they had let it alone) *with Supreme Authority* to give Estates and Offices to whome they thought fit; without asking the Advise of Senate or People. *They appointed what Consuls, Magistrates and Officers they pleased.* They designed riche donatives, &

18 of

18 of the Chiefe Cities of Italy to be given to their Souldiers, if, by their valor, they should obtain victory over Brutus and Cassius, *They fixed publike listes or Tables of Proscription, naming such Persons as they exposed to slaughter.* They Proscribed at one time 130 Senators at another time 150 & 2000 Knights. *Whereby the best men for understanding, conduct Resolution and Affection being cut of,* the rest (terrified by their example) became but Terra Maledicta (as Chymickes call it) dull liveles Ashes or clods of Earth, without power or virtue to quicken them, or make them productive. After some revolutions wherein Augustus & Antonius had discarded the dull and stupid Lepidus, & (at last) Augustus had subdued Antonius: Augustus usurped the Title of *Tribune of the People*, wherby his Person became sacred & inviolable; and (humouring the irrationall Animals) tooke upon him the especiall Protection of that Brutish herd, the Rascall Multitude, The Tribunes of the People having bin originally instituted to protect the People. His next step was to make himself *Perpetuall Dictator*, wherby he arrogated to himself a vaste, unlimited power above all Lawes. The Tribuneship was his Buckler, The Dictatorship was his Sword. And last of all (for Ornament only.) *He having allready the full power of an absolute Monarche (allthough he forbore the Title of (King) because it was hatefull to the People* and against the Lawes ever since the Regifugium) he tooke upon him the Title of *Princeps Senatus, or President of the Senate*; to keep a corresponding power over that great Counsell or Parliament: And finally usurped the Title and Office of *Imperator or Generalissimo* of all forces by Land and Sea, Garrisons, &c.

Philippe King of Spaine Lord of the 17 Belgike Provinces by ſeverall Titles, and under ſeverall limitations, priviledges, exemptions and Fundamentall Laws according to which he was to govern and they to obey: Reſolving to ſubvert the Fundamentall Lawes and Government, and reduce thoſe 17 petty Signiories into one meer, abſolute Monarchy; ſent the Duke D' Alva thither (a warrior of a reſolute ſtern nature) Governor with a powerfull Army. Who taking advantage of ſome rude commotions formerly raiſed by the Proteſtants in throwing down Images & ſacrilegiouſly plundering Churches, *erected a New Tribunall Criminall, or (to ſpeake in our moderne, uncouth language) A High Court of Juſtice*, conſiſting of 12 Commiſſioners or Judges purpoſely choſen, moſt of them hangers by of the law, of mean fortunes, practiſe, birth and breeding; Covetous, Ambitious & ſlaviſhly addicted to the Spaniſh faction. To theſe was given by ſpeciall commiſſion full power and Authority to inquire into and judge (or to heare and determine) the forepaſſed commotions; whereupon *they ſtiled this Court, Concilium Turbarum, but the multitude called it Concilium Sanguinis, or the bloudy Conventicle.* This Counſell or Inquiſition did ſuperſeed and extinguiſh the Authority of all other Courts of Iudicature, and make void all Lawes, Conſtitutions, Iuriſdictions and Priviledges of the Nation, as to the aforeſaid commotions, and all other cauſes they pleaſed to call high Treaſon. *They had no other bounds, nor limits in their proceedings, then what they preſcribed to themſelves in certain Articles.* Some few whereof I will here preſent unto my Reader, becauſe *they judged of high Treaſon by theſe Articles, not by the knowne lawes of the land* (a thing very

In novum regnum vi armisque partum redigere, atque aliis Novis legibus domare ac gubernare Belgium. Meteran. in anno 1567. Roidan. in anno 1566. Iohn Fraunces Petit. Thuanus.

very observable and applicable to my purpose) so that they were not onely Judges, Leges dicere; but also Law-makers: Leges dare: as all Judges are who take upon them a liberty to observe no set formes of proceedings: but at their own pleasure.

1. ARTICLE. All Petitions heretofore tendered to the States, or Cities Corporate against the erecting of New Episcopall Sees; or against the Holy inquisition; or requiring a Moderation of Decrees or Acts of State or Parliament are accounted meere conspiracies against God and the King, made Treason, the like the Parliament practiseth against such as petitioned for peace by accommodation. And against our High Court of Justice, Arbitrary Imprisonments and Taxes.

Petitioning against Innovations in Government and for the knowne lawes

2. ART. All Nobles, Gentry, Judges, Magistrates, and all other who connived at Heretical Sermons, plundering of Churches, and delivering such petitions as aforelaid, pretending the necessity of the times, and did not resist and oppose them.

3. ART. *Whosoever affirmes, That all His Majesties Subjects of Belgia have not forfeited their auncient Priviledges, immunities and lawes for Treason: and that it is not lawfull for the King to use and handle them for the aforesaid Treasons as he pleaseth,* to prevent the like Treasons for the time to come, and that the King is not absolved thereby from all Oathes, Promises, Grants, Contractes and Obligations whatsoever.

Wee have forfeited our lawes by conquest or else Grandees would not passe the two Acts for Treason 14. May. 17. July. 1649. not onely the High Court of Just. and abolish our auncient lawes and government. See Pol. 2. Oct. 1650. and the Case of the Kingdom Stated.

4. ART.

Compare this with the two Acts for New Treasons. 14. May. 17. stated.

4. ART. *They that affirme, This Counsell or high Court of Justice to exercise Tyranny in their Proceedings, or Judgements; and that they are not Supreme and competent Judges in all causes* Criminall and Civil.

July 1649. and the Act 26. March 1650. and Sr. Io. Cellis case

Our High Court of Iust. exceeds all this. See Sr. I. Gells case stated, Printed Aug. 1650.

5. ART. *Those that in case of Heresie deny, that all manner of Informers and witnesses of whatsoever Degree and condition they be, are to be credited:* this High Court ought to proceed to Judgement execution and confiscation of life and goods, *without publishing the cause or charge, and without any legal form of Triall.* All these are guilty of high Treason against God and the King.

The Rigor, Cruelty, and Injustice of this New erected Counsel of Bloud, or High Court of Justice, inforced the Lowe Countries to revolt and cast off the King of Spain.

LEt us now examine whether in some one little Province or Island belonging to that vast Roman Empire; and in some meane, petty fellowes, (Natives of that Island) men even at home of obscure birth, breeding and fortunes; wee cannot find examples of Ambition, usurpation and Tiranny, as high and transcendent; as bloudy and destructive; as covetous and greedy; as any of the fore-recited presidents? And (which is worst of all) carried on by those that call themselves Christians, nay Saints (which is more then they vouchsafe to Saint Peter

and

and the rest of the Apostles, though glorified Saints in the Church Triumphant) and such as in all their bloudy, oppressing, cheating Designes, (promoted by perjury, Treachery, breach of faith, Oaths & publike Declarations) pretend to the singular favour, Providence & will of heaven as confidently, as if they could shew Gods speciall commission, to warrant Usurpation, Treason, Tyranny and Thievery.

It is not unknowne by what Artifices, frauds, falsified promises, Oaths and covenants, *a Part of Antimonarchists, Schismatiks* and Anabaptists lurking in the Parliament *fooled the People to contribute their bloud & mony towards the subduing of the King* (*and in him, of themselves*) and how by the same waies & subtleties the said Party in the two Houses (now combined openly, under the generall Title of Independents) engaging & conspiring with the Officers of the Army and Soldiery *expelled by arm'd force 7 Parts of 8 of the House of Commons*, leaving not above 43 or 44 of their own engaged Party sitting, men enriched with publike Spoiles) & *voting under the Power of the Armies commanders, whose commands are now become a lawe to the said sitting Members as their votes are become Lawes to the whole Kingdom.* In Obedience to their said Masters of the Army, The said Remainder of Commons voted downe the House of Lords, (though an integrall and principall Member of the Parliament of England, farr auntienter then the House of Commons, and having a power of Judicature and to administer an Oath, (which the House of Commons never had nor pretended to have, untill this time that they overflowe their Bounds and the whole Kingdoms under the protection of their Army,) which prerogative of

the Houſe of Lords is cleerely demonſtrated by the Houſe of Commons ſtanding bare before them at all conferences, as the Grande Enqueſt doth before the Judges) becauſe they rejected the Ordinance for Trial of the King. And *now theſe Dregs and Lees of the Houſe of Commons, take upon them to be a compleat Parliament:* To enact and repeal ſtatutes; To ſubvert the Fundamtneall Government, Lawes and Liberties of the Land: To pull up by the Rootes (without legall proceedings) every mans private property and poſſeſſion, and deſtroy his life. To burden the people with unſupportable, unheard of, unparliamentary Taxes; Impoſitions, Exciſe, Freequarter, buying of New Arms after the Country hath been diſarmed of their old Armes three times in one yeare; preſsings and leavyings of Souldiers, Sequeſtrations, plundering of houſes and horſes: and many other oppreſſions; more then the Turk, Ruſſe, or Tarter ever heard of: of all which our *Granees are free*, and lay them upon others as partially as they pleaſe, purpoſely to conſume them. To make Religion but a ſtalking horſe to their deſignes, and the Miniſters thereof but hoſtlers to rub downe, curry and dreſſe it for ther riding: to whom they ſend commands; what

In their Taxe Rolles, they uſually ſet in the Margent to every name, private notes of diſtinction. An M. an N. or P. the letter M. ſtands for Malignant; he that is ſo branded is highly taxed, and his complaints for redres ſlighted, N. ſtands for a Neuter: He is more indifferently rated, and upon cauſe ſhewn may chance to be releeved. The letter P. ſignifies a perfect Parliamentarian. He is ſo favourably taxed as he beares an inconſiderable part of the burden: And that they may ſhr better conſume with Taxes and want all ſuch as do not concurre with them in the height of their valanies. The pretended Parliament are now debating to raiſe the monethly Taxe to 240000 lib. or to deprive every man of the third part of his Eſtate both Reall and Perſonall for maintenance of their immortall warres and ſhort lived Commonwealth. Beſides Exciſe, Cuſtomes, Tonnage and Poundage, Freequarter, finding of Armes and Horſes; and the ſale of Corporation Lands now in agitation. Whileſt our grandees earich all the Banks of Chriſtendome with vaſt ſummes raiſed by publicke theft and Rapine.

what they ſhall, and ſhall not, preach to the people; as if preaching were the Ordinance of Man, not of God. At laſt, by way of preparative to their machinations. they paſſe theſe following votes.

1. *That all Supreme power is in the people.*

2. *That the Supreme Authority under them, is in the peoples Repreſentatives or Delegates in Parliament aſſembled.* Meauing themſelves (you way be ſure) the Quinteſſence and Elixer of the Houſe of Commons, extracted by thoſe learned Chimickes, Doctor Fairfax, Doctor Cromwell and the reſt; graduated at that degrated Univerſity of Oxford. Heer note they voted the Supreme power to be in the people, that they might uſe thoſe Gulles as conduite Pipes or Trunckes, to convey the Supreme Authority into themſelves, the better to enſlave the people: *And tickle them whileſt they faſten about their necks the Iron yoake of a Military Oligarchy, wearing the Maske of a perpetuall Parliament.*

3. *That whatſoever the Commons in Parliament ſhall enact, ſhall have the power and force of an Act of Parliament or Law; without the conſent of the Houſe of Lords, or the Kings Royall Aſſent: any ſtatute, lawe, cuſtome, or uſage to the Contrary notwithſtanding.* (they might have ſaid all our ſtatutes, lawes, cuſtomes, &c. notwithſtanding.) This one vote hath more of *Diſſolution* and more of *Uſurpation* and *Innovation* in it then any I yet ever read of; *This is univerſally Arbitrary, and laies the Axe to the roote of all our Lawes, Liberties, Lives and Properties at once.*

What theſe men will they vote:
What they vote is lawe.
Therfore what they will is lawe.

4. *That to wage warr or beare Armes against the Representative body of the People or Parliament is high Treason.* By the lawe all Treasons are committed against the King, his crowne and Dignity.

5. *That the King hath taken up Armes against this Parliament and is therfore guilty of all the blood shed this warr, and should expiate those crimes with his blood.* If the King were not guilty, these men are; And therfore they passed this vote, *Se defendendo.* Yet observe that herein they became Judges in their owne cause; and forejudged his Majesty before his Triall; if that may be called a Triall, that was carried on by men, who were both Accusers, Prosecuters, Parties and Judges; and had neither lawe, President, formality of proceedings, nor any other foundation of Justice or Reason to warrant them, nor were delegated by any lawfull Authority?

These votes thus passed, and by this kinde of men were the foundation upon which they built their great Engine to destroy the King & Kingly Government together with the Religion, Lawes liberties, lives and Properties of the People, (all condemned in that deadly sentence given against the King.) For having (as aforesaid) created (by their owne votes) themselves as absolute a power as they pleased and cast the People and all they have into that bottomless chaos of their Arbitrary Domination; They erect an Extrajudiciall, unpresidented high Court of Justice to Try (or rather to condemne without Triall) the King: Consisisting of 150. Commissioners, Souldiers, Parliament men, Trades men; the most violent, engaged and factious incendiaries of all the Antimonarchicall faction: Amongst whom were many lowe con-

conditioned Mechanickes, and Banquerouts, whose fortunes are since repaired out of the Kings Estate, and other publique Lands, Goods and Offices; as a reward for that Royall Bloud they spilt. The King (the fountaine of Lawe, Justice, Mercy, Honor, Warr and peace; The head of the Parliament and Supreme Governor over all persons and in all causes (thus violently removed; presently (as if the Mounds and Bancks of the Sea had bin overturned) an impetuous inundation of bloudy theevish Tyranny and Oppression brake in upon us: So that no man can call his life, liberty, house, lands, goods, or any other his Rights or fraunchises his owne, longer then the gratious aspect of some of our Graundees shine favourably upon him.

See that. Recognition. 1. Iac. The Oaths of Allegeance, Obedience & Supremacy: & all our Lawe Bookes.

In the next place: (contrary to their owne Declarations, of the 9 Feb. and 17. March 1648. Wherein they promise; That in all things concerning the lives, liberties & properties of the people, they will observe the knowne lawes of the land, with all things incident thereto) *They passe misbegotten Acts of Parliament one of the 14 of May, another of the 17. of July 1649. whereby* (in 25. Ed III. Chap. 2. Ascertaining Treasons and reducing them to a small number; And leaving nothing to the Interpretation of the Jndges, that the people might not be ensnared.) *They exceeding by multiplying Treasons, bringing hare words as well as Deedes within compasse of that Offence: and making many duties to which the Lawes of God and the Land, the Protestation and Covenant, the Oaths of Allegeance, Obedience and Supremacy oblige us, to be high Treason. And these New Acts of Treason penned in obscure, ambiguous termes purposely to leave a latitude of Interpre-*

This Sta. 25. Ed. III. c. 2. St. Johns against Straffords calls the Security of the people. And the Sta. 1. Hen. 4. Chap. 10. Ed. VI. Chap. 12. 1. Mariæ I. ratify and highly commend.

terpretation in (their owne creatures) the Judges; that the People may be ensnared.

The King thus taken out of their way. They passe pretended Acts. 1. To *Disinherite his children.* 2. *To abolish Kingly Government for ever.* 3. *To convert our auntient, well tempered Monarchy into that* (which they call a *Commonwealth or Free-State*; allthough nothing be therein free but their lusts: nor hath it any forme or face of Civill and just Government; Wherein a confused Multitude rule by their owne wills, without law: and for their owne benefit; No consideration being had of the good and happiness of the people in generall. 4. *They Constitute a Senat or Counsell of State of* 40, *men* (amongst which some Trades men, Souldiers, illiterate lawiers, Parliament Members, men allready engaged over head and eares in sinn, therfore to be confided in) to these or any 9 of these they entrust the Administration of this Utopian Commonwealth and these they would have us beleeve (without telling us so) are the keepers (or Gaolers) of the Liberties of England.

They have converted our auntient Monarchy into a Free-State; and tell us they are the State. They tell us they have bestowed Liberty upon the people: but they and their petty faction only are the people. All the rest of the English Nation ar annihilated, and reduced to nothing, that these Fellowes may become allthings: Meere ciphers, serving only to make them of more account. And this grosse fallacy must not be disputed against least the irnew Acts of Parliament call it Treason.

These things being but Introductions of the usurpation of these Kinglings: and having bin already shewed to the world by many pens. I content my self to give a cursory view of them: and hast to my intended taske. To shew, That this usurped power, is kept and administred, by as wicked and violent policies as it was gotten by.

The first endeavour of all Tirannicall Usurpers is. To lossen the number of their Enemies, either by flattering

flattering and deceiving them: or by violently extirpating and rooting them out. And such have been the attempts of our new Cromwellian Statists, ever since (without any calling from God or the people) they tooke upon them the Supreme Authority of the Nation; subverted our well mixed Monarchy and created themselves a Free-State.

1. They endeavoured to Yweeten and allure to act with them, as many of the secured and Secluded Members, Ministers and other Presbyterians, as they could, to the end that *ex post facto* being guilty of their sinnes, they might be engaged in one common defence, and goe halves with them in their ignominy and punishment, though not in their power, profit and preferments: in which the Godly will admit no Rivalls, but (like their Patron, The Devill) cry, alls mine. But this Disigne fayled for the most part. 1 A colluſive Accommodation.

2. Their second Endeavour, was how to diminish the Number of their Opposites; Royalists and presbiterians; by a massacre. For which purpose many Darke Lanthornes and ponyardes were provided last winter 1649. But fame prevented this plot: which comming to be the common rumour of the town; put them in mind of the danger, infamy and hatred that would overwhelm them. So this was laid aside. 2. An intended Massacre.

At last they invented two other Engines, no lesse bloudy then, and as effectuall as a Massacre.

3. The Engagement (is the first of these two Gins) which all persons are enjoined to subscribe by their Act 2. Jan: 1649. *To be true to the Commonwealth of England, as it is now established without a King or House of Peeres.* And this is obtruded under no lesse penalty, then; To be totally deprived of all 3. The Engagement.

benefit

Benefit of lawe whatsoever. Now the lawes of the land being the only Conservators of our lives Liberties and Estates (without which lawes all men have a like property to all things, and the strongest have right to all is possest by the weaker; since the lawe only distinguisheth *Meum* and *Tuum*) what is this but to expose the Liberties of the Non Engagers to false Imprisonments; our Estates to rapine, spoile and Injustice: and our lives and Persons to woundes and Murders, at the will and pleasure of such as will engage with our Usurpers: but especially at the pleasure of their own Souldiers: to whome (I conceive) this Outlawry was intended as an Alarme or Invitation to plunder and Massacre the Non-engagers, and to pay themselves their Arreares (of which these Parliament men have cousened them) out of their Estates. And, though the souldiers were not so wicked as their Masters, Yet wee daily see many good Families in England despoiled of their Estates, for wapt of Protection of the lawes, brought to miserable beggery, rather then they will wrong their consciences by subscribing this damnable Engagement contrary to the Protestation and Covenant imposed by this Parliament, contrary to the knowne lawes of this land, which this Parliament hath declared to observe and keepe in all things concerning the lives, liberties and properties of the people, with all things incident thereto; contrary to this Parliaments reiterated votes; That they would not change the Auntient Government, by a King, Lords and Commons. And contrary to the Oathes of Allegeance, Obedience and Supremacy: whereby (and by the Stat. of Recognition 1. Jac.) our *Allegeance* is tied only

to

to the *King*, his *Heirs* and *Lawfull Succeſſours*: from which no power on earth can abſolve us; and ſo much wee atteſt in the Oathe of Supremacy. *Politicus* (Interpreter to our New State-puppet play) Nunmb. 16. from Sept. 19. to Sept. 26. out of the dictates of his Maſters tells us, That in Anſwer to the Kings Act of oblivion graunted, the Parliament intends to paſſe an Act of Generall pardon; for which they expect in future a General obedience and ſubmiſſion to the Government. (you ſee though they will not be the Kings ſubjects, they will be his Apes) and in the beginning of the ſaid Pamphlet, *Politicus* ſaith; That protection implies obedience, otherwiſe they may be handled as publicke Enemies and outlawes, and ought to be deſtroyed as Traitors. Here you have the end to which this Generall pardon is intended: it is but a ſhoowing-horn to drawe on the utmoſt penalty upon Non-engagers, appointed by the ſaid pretended Act 2. January, 1649. to weede them out of this good Land, that the Saints only may enjoy the Earth and the fulneſſe thereof; to which purpoſe all their new coyned Acts and Lawes are directed. The Scripture points forth theſe kind of men, when it ſaith. *The Mercies of the wicked are cruell.* The ſum of all is- If we will not acknowledge Allegeance to theſe Muſh-romes, we ſhall be Traitors without Allegeance (a Treaſon never yet heard of in any Lawe (If we will acknowledge Allegeance, we put our ſelves in a capacity to be Traitors, when they ſhall pleaſe to make us ſuch. But let them know; That we are all Engliſhmen, Free-borne alike, under the protection of an Auncient, legall Monarchy, to which we owe Alleageance; and how we come to forfeit that legall Protection, our ſettled

lawes and Government; and be ſubjected to a New, unknown Protection obtruded upon us by a Company of upſtartes (Muſhromes of Majeſtie ſo meane in birth and breeding (for the moſt part) that the place of a Counſtable equalls the higheſt of their education) impoſing what Lawes and conditions upon us they pleaſe; I would be glad to heare without being hindred by Gunnes, Drummes, High Courts of Juſtice and other Inſtruments of violence and Murder. But the greateſt Myſtetie in this cheat is, That our Selfe-created Supremiſts, having voted the Originall power to be in the people, and but a Derivative Authoraty to be in themſelves as the Repreſentative of the people, ſhould notwithſtanding ſo yoake their Soveraigne Lord the People, and make them pay Allegiance to their owne Delegates (the eighth part of a Houſe of Commons) under the penalty (unleſſe they ſubſcribe as the farre major part have not) of outlawing and depriving all the people of this Land of all benefit of the Lawes they were borne to; and conſequently of annihilating and making them no longer a Nation or people. As if they were mere Salvages, newly conquered, collected and formed into a Politick body or Commonwealth, and endowed with lawes newly invented by theſe Novice Statiſtes. But the unlawfulneſſe of the ſaid Engagement with the Injuſtice of the Self created power that obtrudeth it, hath been handled by many good pens: eſpecially by the *Cheſhire* and *Lanchaſhire* Miniſters in their Plea for Non-Subſcribers. Therefore I paſſe on to my principall ſcope; *The ſecond Engin appointed to root out all ſuch as are of a different Party. The High Court of Juſtice.* A formidable Monſter, upon which no pen (that I know of) hath yet adventured.

4. In

4. In treating of the High Court of Justice: I must consider. 1. *By what Persons and Authority* this New erected, unpresidented Court is constituted? 2. *Of what Persons it is constituted?* 3. *The way and Manner of their proceedings?* What formalities and Lawes they observe therein? How sutable to the known lawes of the Land, and the Parliaments Declarations, Protestations and Covenant they are? 4. *To what end the Court is constituted?* 4. The High Court of Justice.

1. *The Persons constituting*, this extrajudiciall Court are the present pretended Parliament consisting of forty or fifty thriving Commons only, who conspired with Cromwell and the Army to expell seven parts of eight of their fellow Members, without any cause shewen. abolished the House of Peeres, erected this High Court of Justice (*in nature of a Court Martiall*) to Murder the King, abolished Kingly Government: Turned it into a thing they call a *Free state*; disinherited the Royall Family, and *now usurp to themselves (without any calling from God or the People) more then a Regall, Legall or parliamentary Authority*, wherewith they have subverted the Fundamentall Government, Religion, Lawes, Liberties and Property of the Nation, and envassalized and enslaved them to their Arbitrary Domination, The Authority by which they erect this extrajudiciall Court is, *The usurped, Legislative power:* By colour of which they passed an Act dated 26. March 1650. Establishing the said High Cour of Justice, *Yet their own creature Master St. Johns, in his Argument against the Earl of Strafford,* (in a Book called Speeches and passages of this great and happy Parliament, printed by William Cook 1641. pag. 24.) saith *The Parliament is the Representative of the whole King-*

dom, wherein the King as head. The Lords as the more Noble, and the Commons the other Members, are knit together as one Body Politicke; The Lawes are the Arteries and Ligaments that hold the Body together. (And a little after) *In Treaſon to embeſell a Judiciall Record, Strafford ſwept them all away. Its treaſon to counterfeit a* 20^{s} *piece* here is a counterfeiting of law (ſo in theſe counterfeit New Acts) we can call neither the counterfeit nor true one our own. *Its Treaſon to counterfeit the Great Seal for an acre of Land* no property hereby is left to any Land at all, (no more is their by the votes and practice of our New Supremiſts) thus farre Maſter S^{t}. Johns. But that the Parliament doth neceſſarily conſiſt of the King and the two Honſes aſſembled by his writ, and can paſſe no Act, without their joynt conſent: See the Preambles of all our Statutes, all our parliament Recordes. All our Law Books: *Modus tenendi Parliamentum.* Hackwells manner of paſſing Bills. S^{r}. Tho. *Smith de Repub. Anglorum. Cambdeni Brittania.* All our Hiſtorians, Politicians, and the uninterpreted practiſe of all Ages. That it is now, lately otherwiſe practiſed; is not by any Law of the Land, but by the will of lawleſſe power and Rebellion, That hath cancelled all our Lawes, Liberties and properties, and ſebverted our Fundamentall Government and diſfraunchiſed and diſinherited the whole Nation. Yet Maſter St Johns in his ſaid argument againſt *S*trafford pag. 38. was then of opinion: That to ſubvert the Lawes and Government and make a Kingdom no kingdom, was Treaſon at the common law. This *Act.* 26. March 1650. is a new modelled Commiſſion of Oier and Terminer: and all the people of the Land, are by the counſequence thereof diſfraunchiſed and proſcribed. The illegality and tyranny

ranny thereof, they have introduced, who in this Parliament ſo zealouſly complaind againſt the Court of the prefident & Counſell of York or of the North, as an intolerable grievance(notwithſtanding it had been of as long continuance as from 31. H. 8.) as appeares by a worthy Members ſpeech or Argument againſt it(in the ſaid Book of Speeches & paſſages pag. 409. made by order of the Houſe of Commons in Aprill 1641. I find not one Exception their made againſt the Court of York, to which this upſtart High Court is not more liable then it. 1. The Commiſſioners of this High Court are not appointed to inquire, *per Sacramentum proborum & legalium hominum*. That is, by Iuries: As by *Magna Charta*, and above 30. Statutes confirming it, all Commiſſions ought to runne. 2. They are not appointed (nor ſworne) to hear and to determine, *Secundum Leges Angliæ*, according to the known Laws, (as they ought to be but according to certaine Articles and powers given in the ſaid Act. 26. March 1650. 3. The ſaid Act. 26. March leaves a dangerous laritude to the interpretation and diſcretion of the Commiſſioners (contrary to what is done in the Act. 25. Ed. 3. chap. 2.) namely; It hath *one Clauſe enabling them to Inflict upon Offenders ſuch puniſhments, either by death or otherwiſe corporally, as the ſaid Commiſſioners or the Major part of them preſent ſhall judge to appertaine to Juſtice.* This leaves it in the breaſts of the Commiſſioners) without any Law or rule to walk by) to inflict what torments and ignominious puniſhments they pleaſe, although not uſed in our Nation. And Arbitrary corporall pains are only proper to Slaves; not to Subjects. Here (after the loſſe of all but their bodies) the people

may ſee their bodies ſubject to the Lawleſs wills of our Graundees. And by another clauſe, this Act empowreth the Commiſſioners: To examine witneſſes upon Oath; or otherwiſe, if need be. This word (or otherwiſe &c.) gives them power to examine witneſſes without Oath (if they can not procure witneſſes, ſo farre the Sonnes of Belial and cauteriſed in Conſcience as to adventure upon an Oath) even in caſe of life and death and mutilation of Members; Contrary to the current of all our lawes, and practiſe of all our Courts of Law, and of all Nations. See Stat. 1. Ed. VI. chap. 12. 5. Ed. VI. chap. 11. Cookes 3. Inſt, pag. 24. 25. 26. Deut. 17. 6. Ex ore duorum vel trium peribit qui occidetur. Deut. 17. 6. Matth. 18. 16. John. 18. 23. 2. Cor. 13. 1. Heb. 10. 28. This is the moſt arbitrary and deſtroying liberty that ever was given to Judges; And ſuch as none but profeſſed Theeves and Murderers will accept or make uſe of. The Scripture ſaith. An Oath is the end of controverſy between man and man. How then can they end and determine a controverſy without Oath. But the end of all controverſies before this Butcherrowe of Iudges, is cutting of throates and Confiſcation of Eſtates. And by the ſame clauſe of the ſaid Act (To examine witneſſes) They may, and (I heare) do examine witneſſes clandeſtinely and proceed upon bare Depoſitions read in Court whereas they ought to produce the witneſſes face to face in open Court, and there ſwear them, that the Party accuſed may interrogate them, & examine the circumſtances, & whether they contradict themſelves or one another, for cleering the Evidence? And whether they be lawfull witneſſes or no? Nay (I heare) they do privately ſuborne and engage

See Stat. 5. Ed. VI. chap. 11. & Cooks 3. Inſt. p. 26.

gage witneſſes without Oath. And then produce them to ſwear what they have formerly related only: and if they ſcruple at an Oath, Puniſh them for miſinforming the *State*. 4. That I may make ſome more uſe of the aforeſaid Members words. Whether the King, or a prevailing Party uſurping his Kingly power) may canton out a part of his Kingdom, (or cull and mark out for ſlaughter, ſome principall men & deny them the benefit of law, in order thereto, as theſe Judges do) to be tried by ſpeciall Commiſſion, ſince the whole Kingdom is under the known laws & Courts eſtabliſhed at Weſtminſter? It ſhould ſeem by this Parliaments eager complaint againſt the ſpeciall Commiſſion of York, this Parliament hath determined this queſtion in the Negative already, (whatſoever their preſent practiſe to carry on their Deſign is) See *Stat.* 17. Car: 1. againſt the Star Chamber. To what purpoſe ſerve thoſe Statutes, of *Magna Charta* & the Petition of Right if men may be fined & impriſoned (nay murdered) without law according to the *Diſcretion* of Commiſſioners? This Diſcretion is the quickſand that hath ſwallowed our Properties & Liberties. (but is now ready to ſwallow our carcaſes) Thus far that Gentleman, Whoſe words then carried the Parliamentary ſtamp upon them. Let me add ſome more exceptions of my own againſt this high Court of Injuſtice. 5. Souldiers of the Army are appointed by the Act 26. March. To be aſſiſtent, to the Commiſſioners. Contrary to the peaceable proceedings of the Law, which never makes uſe of any but Civill Magiſtrats & Officers of the Law. See Sta. 7. E. 1. 2. E. III. ch. 3. 7. R. II ch. 13. 6. And *contrary to the old Oath which all Judges ought to take, in theſe words.* You ſhall ſwear *well & lawfully to ſerve the King and People*, in the Office of Juſtice &c. And that if any

of

of what eſtate and condition they be, come before you in the Seſſions with force and Armes, againſt the peace, or againſt the Statute thereof made, to diſturb the Execution of the common Lawes, or to menace the people, that you arreſt their bodies, &c. Stat. 18. Ed. III. in An. Domini 1344. pag. 144, Poultons Book of Stat. at large. *But the Oath appointed for theſe Commiſsioners to take, is not penned in Tearms of Indifferency. Nor doth any wayes oblige them to the people* 26. March 1650. (viz.) *You ſhall ſwear well and truly according to the beſt of your skil and knowledge, to execute the Several powers given you by this Act.* (not well and lawfully to ſerve the peaple). Beſides they ſweare to execute The Severall powers given. (*Not to do Juſtice according to the Lawes*) Now the Lawes are the onely Rules of Juſtice, by which we diſtinguiſh crooked from ſtreight, true from falſe, Right from wrong. This is not the worke theſe Judges are packed for, but to *execute Acts* of *power* and *will.* But powers are often uſurped, Tyrannicall, illegall, and unjuſt: So are theſe. *Injuria eſt quod contra legem fit.* 7. How can the Houſe of Commons (if it were full and free) conſtitute a New unpreſidented Court of Juſtice, nominate and ordaine Judges, and enable them to adminiſter Oathes; Having never had, nor ſo much as pretended to have, any power to judge, to nominate judges, or to adminiſter an Oath; as having never been more then the Grande Enqueſt of the Kingdom, humbly to preſent to His Majeſty in a petitionary way, the Grievances of the people? *Nemo dat quod non habet.* 8. Suppoſe the Houſe of Commons had power of judicature, delegated to them from the people as their Repreſentative? *Delegati non poſſunt ſubſtituere Delegatos, & poteſtatem ſibi concreditam, in alios transferre.* Delegates

legates cannot make Subdelegates, and transfertheir truſt to others. See Col. *Andrews* 3 Anſwers given in to this High Court, for his defence. Printed at the latter end herof.

2. My ſecond conſideration will be, *Of what Perſons delegated or commiſſioned, this Court conſiſtethe?* The pretended Act 26. March 1650. names 25. Commiſſioners, all which (for their better credit) it enacteth Eſquires, amongſt whom are 4. or 5. that have profeſſed the Law, (as far as woaring a Lawyers gown comes to) but were better knowne by their leiſure then by their Law; untill by adhering to our prevailing Schiſmatikes, in ſubverting our lawes, they ſeem to be eminent Lawyers. Of *Keeble* ſee the Triall of L. Col. *John Lilburn*, 1 and 2 Part. *Steele* cited expired Statutes at Wincheſter againſt Cap. *Burley*. The reſt are (for the moſt part) poore ignorant Trades-men, ſome ſo young they are but lately out of their Apprenticeſhips, others broken Trades-men that have compounded with their Credirors, ſome of vile and baſe profeſſions; One or two of theſe Wolviſh Saints (I heare) have with ſome difficulty eſcaped the gallowes for Manſlaying: *William Wibearde* Eſquire is a Rope-ſeller: this emploiment may happily helpe him to the Hangmans cuſtome. *William Pemoter* Eſquire was heretofore an Ape-carrier, Cherry-lickom or Mountredinctido. *Cook* a vintner at the Bear at the Bridge foot, he keeps a vaulting ſchoole for our ſanctified Grandees, and their Ladies of the Game. If the Houſe of Commons had power to make Iudges (which I have diſproved) yet, *Ex quovis ligno non fit Mercurius*, They muſt name ſuch Perſons as may be competent Iudges. And therfore muſt not chooſe, 1. Ignorant men. 2. Nor ſuch

as the Law calls, *Viles Personas*, men base or contimptible for their Persons or Sordid callings; Mechanicks of the lowest rank. 3. Persons of Scandalous life and conversations. 4. Not Banquerouts and Indigent Persons. *Necessitas cogit ad turpia.* 5. Not partiall and preingaged Persons, chosen to suppress another party. As these Commissioners are engaged to the present power to suppress all others. 6. Nor *such as Schismatically or Heretically affected, are seasoned with such Doctrines and Principles, as neither agree with the Duties of a good Christin, a good Commonwealths man, nor a good Judge*. Which two last Objections not only these Commissioners, but the pretended Parliament that commissioned them are apparently guilty of, as being all of the Independent faction, conspiring to rob and root out all other Parties: Royallists, Presbyterians and Levellers: For which purpose this New Tribunall or Inquisition is set up, *Independency being a meere complication and Syncretismus, or rather a Sinke and Common Sewer of all Errors, Heresies, Blasphemies and Schismes, (though they peevishly differ in some inconsiderable Tenents) yet having one General End or scope at which they all chiefly aime, (viz). power, preferment, profit, and the suppression of the Truth and Magistracy, they have likewise some common principles to soader them together, which they use as a Meanes conducing to that General End*, Some few wherof I will heere set downe for my Readers satisfaction. 1. *To tolerate no King nor Magistrate Superior to themselves*, as being a Tyranny or Bondage over the Christian Liberty of the Saints and Kingdom of Christ. Because they know no Christian Magistrate can tolerate them, being (by the *Genius* of their Sect) enemies to all

Civill

Civill Societies, whether Monarchicall, Ariſtocraticall, Democraticall or Mixed; as the Kingdom of England was before theſe men deſtroyed it. Beſides their common Doctrine *That they are appointed to breake the powers of the Earth to peeces, To levell the hills and fill up the vallies, That they are called, To bruiſe the Nations with a rod of Iron, and breake them in pieces like a Potters veſſel*: Which they have done in England, and threaten the like in France, Germany, &c. whereof their pulpits and diſcourſes ſound. Obſerve *their Practiſes in the Low Countries*, Where having by their ſpies and Emiſſaries, found out ſome Burgers of the ſame humour with themſelves; They propagated their Doctrine ſo far, as to endeavour to ſtrike the Ariſtocraticall Members out of that Commonwealth by abetting ſome of the States Provinciall, to leſſen (and ſo to aboliſh by degrees the Lords States Generall (the Optimates of that State) to ruine the Prince of Orange, to whoſe Family they owe their Liberty; *To diſſolve the Generall Vnion of the ſaid Vnited Provinces, and ſo take in pieces the whole Frame of that Republike.* To ſay nothing of their Inſolencies in fighting and Killing their men, becauſe the Belgike Lion will not ſtrike ſaile to their Croſſe and Harpe; and in blowing up the Antelope in Helverſluce: Which ſhewes what good Neighbours Holland, and other Parts, are like to have of the New State of England and Ireland (when they have made themſelves intire by the purchaſe of Scotland) that is borne (like our Engliſh *Rich.* III.) with ſeeth in its head; and ſnappeth at its Neighbours before it be out of its ſwadling clouts. This is the cauſe that *Cromwell*, before he ſet ſaile for Ireland, cauſed his Iourney-men,

men, the pretended Parliament, To passe an Act for toleration of all Errors, Heresies & Schismes, under the Notion of Liberty of Conscience, and ease for Tender Consciences. 2. Their second Principle is, *That the good things of this World belong only to the Saints (that is, themselves) all others being usurpers therof: and therfore they may rob, plunder, sequester, extort, cheat and confiscate (by illegall Laws of their own making, by extrajudiciall Courts and partiall Judges of their own constituting) other mens goods and estates, upon as good title as the Iewes spoiled the Egyptians*; or expelled the Canaanites. 3. Their third Principle: *That the Spirit (which sanctifies and illuminates these men) in every particular man blowes when and where it will, sometimes this way, sometimes that way, often contrary waies: And therfore they can make no profession of any certain Rule of Doctrine or Discipline, because they know not which way the Spirit will inspire.* For this reason they are still pulling down old, and setting up new Doctrines, as the Nomades do cottages, only constant in unconstancy. They professe their consciences are the Rule and Symbol both of their Faith and Doctrine, by this leaden Lesbian Rule they interpret, and to this they conform the Scriptures, not their Consciences, to the Scriptures; setting the Sun Diall by the Clock; not the Clock by the Sun Diall. That every man must pray according to the dictates of his private Spirit; They reject the Lords Praier, for fear of quenching the Spirit. *when they break their Faith, Articles, Promises, Declarations and Covenant; they allege, the Spirit is the Author therof.* When *Cromwell* (contrary to his vowes and Protestations made to the King) kept him close Prisoner in Charisbrooke Castle; He affirmed

ed *the Spirit would not let him keepe his word.* When, contrary to the Puqlike Faith, they murdered Him, they pretended: *They could not reſiſt the Motions of the Spirit. Sua cuique Deus fit dira libido.* This Hobgoblin ſerves all turns. 4. Their fourth Principle is, *That they may commit any ſin, and retain their ſanctity in the very act of ſinning: For what is ſinfull in other men, is not ſo in the Saints; who may commit any crime againſt the Law of God, and yet it cannot be imputed to them for ſin;* Becauſe they know in their Conſciences what they do. So tender and delicate are their Conſciences; That *they are capable of any Offence againſt their Neighbour, without breach of Juſtice or Charity.* A righteous man is a law to himſelf. 5. Their fift Principle is. *That 7 make a Church, although men, women and children, and that this Church is Independent upon any other.* The Anabaptiſts (though they neither profeſſe to follow *Paul* nor *Cephas*) yet declare themſelves to be ſome of *Cromwells* Church, ſome of *Iohn Goodwins*, ſome of *Kiffins*, ſome of *Patiences*, end ſome of *Garters* Church. 6. Their ſixth Independent Principle is. *That if a man be queſtioned for any crime, though his Judges have neither competent witneſſes, proofs nor evidence of his guiltineſs, yet if they think in their Conſciences he is guilty, they may condemne him out of the teſtimony of their own private conſciences.* Is it not fit men ſo Principled ſhould be Judges and Jury too; and condemne men by inſpiration? So Col. *Andrews* and Sr. *Iohn Gell* were condemned; for *ernard* and *Pits* (witneſſes againſt them) were apparently ſuborned by *Bradſhaw* and Sr. *Hen. Mildmay* againſt them: & forſworn in the ſame cauſe; & good proof offered to the Court, that they were both flagitious men, of

ſcandalous life and converſation. The letter (ſuppoſed to be ſent by *Andrews* to *Gell*) was delivered to *Bradſhaw*, whereof *Bradſhaw* ſent a Copy only to *Gell* at 10. of the clocke at night; and had a warrant then ready to arreſt *Gell*, which was done early next morning before he could conveniently diſcover it: Yet was *Gell* ſentenced for Miſpriſion of High Treaſon. See Sir *John Gells* caſe ſtated, Aug. 1650. with Col. *Andrews* Atteſtation (in his behalfe) under his hand a little before his death. And though Sir *John* was Impeached & Mr. Atturny proſecuted him only for Miſpriſion; yet had he much adoe to keepe that bloodthirſty, old curre *Keeble* from taking a leap at his throat, and giving Iudgment againſt him for High Treaſon. So for want of law Sir *John* had like to be hanged by Inſpiration & Inſtinct of the Spirit. He that will ſee more of theſe Independent Tenets, Let him read *Cl. Salmaſius* chap. 10. *Defenſionis Regiæ, Elenchus Motuum nuperorum in Anglia*, And the Hiſtory of Independency. 1. and 2. part. Theſe 6. I have ſelected, that by comparing their Doctrine with their daily Practiſe, the Reader may perceive what pious Chriſtians, good Patriots, and upright Iudges, theſe engaged, Independent Commiſſioners of the High Court of Iuſtice are like to prove. The builders of this new Commonwealth or Babel, hold forth to the people Iuſtice and Liberty, as their Motto: as if thoſe excellent gifts had never received their birth, nor been ſo much as ſhown to the people untill they murdered the King, and ſtepped into his Throne. But how righteous a *Free State* or Common-wealth is this like to be? And how well are the people therin likely to be inſtructed in the wayes of Righteouſneſs, Iuſtice and Charity

rity, and improved in good life and conversation, by men so principled as aforesaid, let the world judge. Especially when they observe, That our New Statists have enacted in the said pretended Act 2. Ian. 1649. enjoyning the Engagement, That whosoever will promise Truth and fidelity to them by subscribing the Engagement may deale falsely and fraudulently with all the world besides, and breake all Bonds, Assurances and Contracts made with Non-engagers, concerning their Estates; and pay their Debts by pleading in Barr of all Actions, That the complainant hath not taken the Engagement: This is to rob the Egiptians of the good things of this world, This is to breake their Faith by the Motions of the Spirit. This is to cheat and rob their Neighbours without breach of Charity or Iustice, and without imputation of Sinne, according to their aforesaid Tenets.

3. I am come now to consider in the third place, *The way and Manner of their proceedings*; How consonant they are to the usuall proceedings of our known Laws, and Legall Courts of Iudicature? (the best Inheritance of all Freemen) whereof see Col. *Andrews* 3. Answeres in his Defence given into the said High Court, here with printed.

1. The first Course they commonly take is; To breake open mens Houses, Studies, Chests, &c. and seise their Papers; and thereby hunt for Matter of Charge against them: And then to examine them against themselves, upon the said Papers, contrary to *Magna Charta* which saith, *Nemo tenetur prodere seipsum.* And contrary to the Doctrine of Christianity, which forbids a man to destroy his owne life, or be, *Felo de se*, as many men unwittingly doe, who answer

ſwer to captious, enſnaring queſtions. When that tempting queſtion was put to Chriſt; *Art thou the King of the Jews?* He returned no other Anſwer then: *Thou ſayeſt it: Why askeſt thou me?* Aske them *that heard me*, That is, Aske witneſſes. It was objected againſt the Oath *ex Officio*, That it was High Injuſtice to examine a man againſt himſelfe: Becauſe his Anſwers may only ſerve to condemne, but not to acquit him.

2. They uſually breake open houſes with Souldiers, at all houres of the night pulling men out of their beds with great violence and Terror, and ſo carrying them away, under pretence whereof Robberies and Murders have been committed. Whereas by the Stat: 1. *Ed.* VI. chap. 12. and 5. and 6. VI. chap. 11. A man ought not to be accuſed of High Treaſon but to one of the Kings Counſell; or to one of the Kings Iuſtices of the Aſſize; or to one of the Kings Iuſtices of the Peace being of the *Quorum*: or to 2. Iuſtices of the Peace where the Offence is commited. *Cookes* 3. Inſt. chap. High Treaſon. pag. 26. 27. 28.

3. They Commit men to priſon without any Accuſation or Accuſer made knowne, and during pleaſure: & deteine them in priſon many years together without any Legall proceedings or Charge againſt them; ſharing their Eſtates, Offices and Revenues (by Sequeſtrations and Suſpenſions of the Profits) amongſt themſelves; without any Crime objected: And ſo leave them to ſtarve, rot and dye in naſty Gaoles for want of Maintenance, under the cruelty of covetous and mercileſs Goalers, whom they beare out (for mony) in all their Extortions. And being thus impriſoned and wounded with the diſpleaſure of the State, no man dares adventure, upon any ſecurity, to lend him mony for fear of incurring the diſfavour

of

of the State, and a Note of Malignancy, whereby their Priſons are become private Slaughter-houſes, as well as their Coutts Publick Shambles of Injuſtice. Priſoners in the Tower of *London* (to which Priſon no Gaole delivery belongs) were alwaies wont in the time of *(that ſuppoſed Tyrant)* King *Charls* I. and his Predeceſſors, to have allowance from the King, according to their ſeverall degrees; As 5 l. a weeke for an Eſquire, &c. although the King deprived them of no part of their Eſtates untill conviction, and this Maintenance was provided for them by the Lieutenant of the Tower; and in reſpect of his care and paines in procuring it, he had Fees, and not otherwiſe; though now they continue and encreaſe the ſaid Fees, the cauſe being taken away, the effect ceaſeth not. But theſe men now in power, after they have Committed men, and robbed them of their Eſtates, without cauſe ſhewen, are ſo farre from giving them any allowance to feed them; that they ſhut them up cloſe Priſoners iu unwholſome Chambers, denying them the Liberty of the Tower, and the benefit of freſh Aire (the Cameleons Diet) for their health, and reſort of friends for their accommodation. And that they may be ſure to *deprive them of all legall meanes by* habeas corpus *to recover their liberties*; They Commit men by *illegall warrants*, not expreſſing any particular Offence or cauſe for their Commitment: ſo that it is impoſſible for the Keeper of the Priſon to obey the *habeas corpus*, which is directed to him in theſe words: *Precipimus tibi quod corpus A. B. una cum cauſa detentionis ſuæ, habeas coram nobis, &c. ad recipiendum ea quæ curia noſtra, &c.* Whereupon the Gaoler or Sheriffe is to bring his Priſoner to the Barre, and tender his *mittimus* to the Court,

Witnes about 3000 Scottiſh Priſoners of war ſtarved to death at *Durham*: where they ate one another for hunger. These were taken at the battle of *Dunbar*, *Anno* 1650 3 *Sept.* & many hundred Priſoners have been murdred in Gaoles, with hunger, cold, naſtineſſe, and contagion; after they have been robbed of their Eſtates, & no Crime laid to their Charge. This is now become a daily practice.

shewing the particular cause of his Imprisonment, that the Court may judge whether it be Legal, or no. *Dolosus versatur in Generalibus.* In the Acts of the Apostles *cap.*25.*v.*26,27. *Festus* thought it unreasonable to send *Paul* a prisoner to *Cæsar* (to whom he appealed) and not withall to signifie the Crimes laid to his Charge. See *Cooks* 2. Instit. fol. 591.

4. Their usual course of *practising and suborning witnesses, tempting them with hopes, and terrifying them with fears,* is so notorious, That it is known the Councel of State have hundreds of *Spies and Intelligencers, Affidavit-men, and Knights of the Post,* swarming over all *England,* as Lice and Frogs did in *Egypt,* and have both *Pensions and set rates for every polle brought in: So that now the whole Nation is proscribed, and every mans head set to sale,* and made a staple commodity, (far beyond the definite proscriptions of *Silla,* and the *Triumvirate* aforesaid) these Sons of *Belial* are sent forth to compasse the earth, seeking whom they may devour. These, (with the Liberty of Priviledged Spies) speake bold language to draw other men into danger: and plot conspiracies, which themselves detect and are rewarded like Decoy Ducks for their pains. Of this sort are *Bernard* and *Pits* set on work to betray *Gell* and *Andrews,* as aforesaid. For which *Bernard* had 300l. and a Troop of Horse conferred upon him. *Johnson* that falsly accused Sir *Robert Shèrly,* and Col. *Egerton* or their charity in relieving his wants, is another; *Varney* is a Fourth. So well are they fitted with these Sons of *Belial,* that no *Naboth* can keep his Vineyard, if a Grandee cast a covetous eye upon it; they can prove what they list. Nay it is usual for our Grandees to molest one man with examining him 20.

or

or 30. several times, against one Prisoner, and upon one point, to distract his memory, and nor to let him be quiet until he perceive, He must speak what their questions and discourses lead him to, to redeem himself from vexation. To say nothing of their Menaces, to torture men if they will not confesse, what they impudently pretend is already discoverd by other means: And their insinuating into the Affections of witnesses, by asking them, Whether the State doth not owe them money? And why they do not use fitting means and opportunities to recover it? And why they doe not make means for some beneficial employment?

5. *In Magna Charta*, chap. 29. it is enacted, *That no Freeman shall be taken or imprisoned, or be dissesed of his Freehold or Liberties, or Free Customes, or to be outlawed or exiled, or any otherwise destroyed*; nor *we will not passe upon him, or condemn him, but by lawfull judgement of his Peers, or by the Law of the Land. We will sell to no man, we will not deny or defer to any man Justice or Right.* See Stat. 2. Ed. III. chap. 8. 5. Ed. III chap. 9. 14. Ed. III chap. 14. 25. Ed. III. chap. 4. 11. R. II. chap. 10. Pet. of Right. 3. Car. 1. 10. Ed. IV. fol. VI. Dier. fol. 104. *Cooks* lib. 5. fol. 6. lib. 10. fol. 74. lib. 11. fol. 99. Regist. fol. 86. Where note the word (*Peers*) signifies, that no man is to be condemned or destroyed, but by the lawfull verdict of a *Jury* of 12 *sworn men of the Neighbourhood* where the Fact was committed; because (in probility) Neighbous may have best cognizance of the Fact, and of the life and conversation of the Party Accused. And these only are *Competent Judges of Matter of Fact*; and in many Cases of Matter or Law too, if they will take the

knowledge of the Law upon them. Neither can this Petty Jury of 12. men goe upon the Priſoner, unleſſe a *Bill of Enditement* conteining the whole Matter of charge be firſt found in open Court by a Grand Jury or Enqueſt of ſworn men; who are to enquire of the Fact upon the Oathes of two lawfull witneſſes (at leaſt) to every material point of the Enditement; and then, when the Grand Enqueſt are all agreed, the Foreman endorſeth upon the back of the Bill (*Billa vera*) and then preſents it in open Court, as the Information for the King of the whole Enqueſt: otherwiſe the Enditement is quaſht, and null. Cookes 3. Inſtit. chap. High Treaſon and Petty Treaſon. And whereas the Statut. ſaith, but by his Peeres, or by the Law of the Land) *Lex Terræ*, ſignifies, The Antient Cuſtomes of the Land; Amongſt which Fundamental Cuſtomes; Trialls by Juries hold a principall place. And *when King Charles the I. accuſed this Parliament, That they diſpoſed of the Subjects Lives and Fortunes by their Votes, contrary to the known Lawes of the Land, This Parliament in their Remonſtrance, September*, 1642. (1 Part of the Book of Declarations, *fol.* 693.) *highly reſented it.* And *Magna Charta* being nothing elſe but an Affirmation of the Common Law, inſerted this Clauſe (*or by the Law of the Land*) as a ſpecial caution, not to annihilate or fruſtrate (no, not ſo much as tacitely, or by preterition) any of the ſaid Fundamentall Laws or Cuſtomes; nor any other particular Lawful Cuſtoms, which are not one and the ſame in all parts of *England*: Witneſſe the Cuſtome of *Gavelkinde* in *Kent*. I have told you what our known antient Legal Courts of Juſtice doe. And I muſt tell you that *Legal formes, and ſet Modes of proceedings are*

ſo

ſo eſſential unto Juſtice, that without them we cannot meaſure the Rectitude or Obliquity of Juſtice or Injuſtice: where they doe not chalk forth the way, both Judges, Lawyers, Officers and Atturneys, will tread what ſubtle, obſcure paths they pleaſe, uſurp an arbitrary power and latitude to prevaricate; and ſo farre corrupt and work the Law to their ſence, that they will rather *Leges dare*, than *Leges dicere*, ſo that what is Law in one mans caſe, ſhall not be ſo in another mans, they will ſo intricate and intangle Cauſes, that every caſe ſhall be *Caſus pro amico*, as Civilians call it, when upon full hearing, the Merits of the cauſe appear ſo equal, and undiſtinguiſhable on both parts, that the Judge may (according to his diſcretion) look upon the Merits of the Perſons only, and give the cauſe; *Pauperiori, via Charitatis, or digniori, ratione virtutis. Juſtice not fixed by Formalities, will become ſuch a vagrant, that no man ſhall know where to find her.* Let us now ſee what our new Shambles, our up-ſtart high Court doth. Which in this work of Reformation and Deſtruction, ſo much abhors Superſtition and Ceremonies, and ſticks ſo cloſe to a ſummary way of proceeding, that they have not only ſtripped, but flead her: as their Maſters the Parliament not only fleece but flea the People. In lieu of a Bill of preſentment by a Grand Inqueſt, the pretended Parliament or Councill of State, ſend *a Liſt of ſuch perſons names*, as they have proſcribed, and ſet a *Nigrum Theta* upon, (as men dangerous to their deſigned Intereſt) to the Maſters of the Slaughterhouſe, the ſaid high Court, together with ſuch Depoſitions as they have taken in corners, againſt the Priſoners: and this is ſuch a fore-judging of them, that the ſaid Court neither will, nor dare acquit, whom

their Maſters and Pay-maſters have precondemned. Next *Articles of Impeachment in nature of a Charge* are drawn up againſt the Priſoner, (although ſuch Articles are nothing in Law, which regards only a Bill of Inditement) Then the Priſoner (after a cloſe impriſonment for he knows not what) upon two days warning is led to the Bar, where the firſt work is to dazle his eyes, amaze and diſtract his Judgement and Memory with the terrour of their Souldiers and Numerouſneſſe, high affronting words and lookes of his Judges; having thus mortified the Priſoner, he is commanded to hear his charge read: and bid *plead to it, Guilty or not Guilty.* If he own their Iurisdiction, and plead the ſaid General Plea, they have him where they would have him: they never aske him how he will be tryed? Whether by God and his Country? For God hath no hand in theſe proceedings, nor amongſt ſuch Judges: and this rodde of Iron is provided to bruiſe his Country, as well as himſelf. Lieutenant Colonel *Lilbourns* Tryal hath taught them, that it is an eaſier Matter for them to pack a Butcher Row of confiding partial Judges, than a Jury; who are liable to be challenged, if ſuſpected of partiality. When Col. *Andrews* claimed to be tryed legally as a Freeman by a Jury, and vouched Great Charter, and many other Statutes, (whereof ſee his aforeſaid 3 Anſwers) that ſneaking Blood-ſucker, illiterate *Keeble* Anſwered Thoſe Statutes were out of date now, (meaning, they were taken away by Conqueſt,) *So that this Shamble Rowe of Judges, take upon them to be, both Judges of the Law, (without acknowledging the Fundamentall Lawes of the Land, or taking any Oath of Indifferency to the People) Triers of the Fact, or Ju-*

rates

rates of life and Death (without being ſworne to find according to evidence) as well as Parties and Proſecutors. Theeves upon the Highway may as juſtly arraigne a True man before them, becauſe he brought no more money in his Purſe, offered to draw his Sword, and hid his Money about him in contempt of their Juriſdiction and Authority, and condemne him upon ſuch a mock-Tryal and Mummery or Enterlude of Juſtice, as theſe Fellowes. *If they allow him Councill*, his Councill muſt apprehend the mindes of his Judges, at his perill; and not be ſo faithfull and diligent as to help his Client in earneſt; Leaſt the Council of State, or ſome other power (whoſe will is a Law) interpoſe, and baniſh him 20 miles from *London*; as they did Maſter *Sprat*, Sir *John Gells* Sollicitor, before Sir *John*'s buſineſſe was ended, whereby Sir *John* was left deſtitute of means to follow his buſineſſe, himſelf being cloſe Priſoner. If they permit any *witneſſe to ſpeak on the Priſoners part*, he comes at his peril: Sir *John Gells* firſt witneſſe was ſo baffled in Court, that the reſt ſtole away and durſt not appear. *I have not heard whether they give any Copy of their Articles of Impeachment to the Priſoner*, (for they cover all their doings with ſuch a plaguy Egyptian Darkneſſe, that we cannot ſee a glimpſe of light) or whether they go a Star-Chamber way, and make him Anſwer *Ore tenus*, and *ex tempore* for his Life and eſtate. *But if they give him any Copy, or any time to anſwer, it is not above 4 or 5 days, or a week, nor do they allow him Council, or any other clearing of the way to his defence, until he have inſnared himſelfe by owning their Juriſdiction, and pleaded the General Plea, Not Guilty. If he plead not an Iſſuable Plea, and yeeld to their Juriſdiction, quitting all benefit of the Law and Legal proceedings; the Razor is at his throat,*

they

they thirst after his Bloud; and they presently sentence him guilty of contumacy and take it pro confesso. *And if he do submit and pleade: His plea will have the operation but of a Psalm of Mercy, prolonging his life but for a short time, in the interim* Keeble *and his Court playes with him as a Cat doth with a Mouse, and then devours him. For no man is sent to this Court to be Tried, but to be Condemned. In hac arena dimicatur sine missione.* Herein they shew themselves much more Tyrannous and bloudy than the Duke *D' Alva* when he erected his said Council of Troubles, called *Concilium Sanguinis*, or the Bloudy Conventicle; as this will shortly be. For saith *Strada*, Declar. 1. lib. 7. *Procurator regius menses* 4. *Conficiendæ Accusationi accipiens sibi*; 5. *Concedebat ad Defensionem reis* (*Egmontio Hornano*, &c.) The Kings Atturney took 4 Months time to draw up the Charge or Accusation, and gave five Months time to the Respondents to make their defence. And had he given less than five Months time to Instruct Council, Pen their Answers, produce and summon witnesses, inquire into the lives & conversation of their Accusers, his feet had been swift to shed bloud. *Nulla unquam de morte hominis cunctatio longa est.* But our Inquisitors take whole years to themselves, to hunt for Matter of Accusation, and hire and engage witnesses against men kept in ignorance & want with close Imprisonment: and allow not them so many dayes to make their Defence. *All manner of Accusers and witnesses, though apparently suborned and forsworne in the same cause, and proofes without exceptions offered to the Court that they are of infamous life and conversation, are in this Court,* (*the Object of whose desires are Bloud and Confiscations, not Justice*) *lawfull Witnesses*, such witnesses were the said *Bernard* and *Pits*; Monsters of men.

See

See Sir *John Gell's* case stated, Printed about *Aug* 1650. *To cite any antient known Laws and Statutes, or any other than their own new coined Acts, passed by this eighth part of a House of Commons, (since they became elect Members chosen by* Tho. Pride *) is to incur the high indignation of the Court, expressed abundantly in their words and looks. But to put them in mind of the Parliaments many Declarations, to maintain the antient known Laws, Liberties and Properties of the People, is to scandall the present Government, and iucur the censure of that unknown Mysterious crime, which Knaves call Malignancy.* The witnesses & Judges being thus irrefragable, the first may swear what they will, the second may judge what they will, since they are left at large, and have all things *in scrinio Pectoris:* and Book-Law, must give place to Bench-Law, *The Jurisdiction and Authority of this New unparallel'd Court, is such a Mistery of Iniquity, so unscrutable and unquestionable,* that if a Prisoner scruple in the least, either it, or any of the uncouth proceedings of it, it is a Mortal sin to him, and he is presently interrupted, and affronted, both with disdainfull words and looks; And told, *We are satisfied with our Authority that are your Judges;* (So are Theeves upon the High way satisfied with their Authority, that Rob and Murder us by Gods Providence and permission.) *It is upon Gods Authority and the Kingdoms* (yet what they doe is against the will of God revealed in his Scriptures: and against the known established Laws, Statutes, and continual Practise of the Kingdome:) *Which Authority commands you in the name of the People of* England *to answer them.* (Yet at least 9. parts of 10. of the People so much abhor these and other their Practises, that every mans mouth speaks against them with bitter curses and reproches,

See the Tryal of King Charles I. in the History of Independency, Part. 2. P. 91. &c.

to restraine which they have minted Acts of New Treasons, to make men Offenders, nay Traitors, even for bare words, and erected this bloody illegall Theater, the High Court so called, for its High Injustice) as a Spanish Inquisition over them, and every mans hand would be about their eares, did they not keep an Army of Janisaries to suppresse them. *Their Authority they doe avow to the whole world, that the whole Kingdome are to rest satisfied therewith.* (You see here a Whip and a Bell provided to keep the whole Kingdome in awe: the declared Supream Power of their Soveraigne Lord the People, must resigne their known Laws to their Trustees, their Representatives in Parliament, and take New Laws from their Arbitrary Votes, or woe be to their Necks and Shoulders. *I must interrupt you, what you do is not agreeable to the Proceedings of any Court of Justice. You are about to enter into Argument and dispute concerning the Authority of this Court, before whom you appear as a Prisoner; you may not dispute the Authority of this Court, nor will any Court give way to it, you are to submit to it.* (It is not safe to confute a Lie told with Authority. Yet if a man be Endited of Treason or Felony in the Court of Common Pleas, a man may Demur to, and dispute the Jurisdiction of that Court; because it is not in Criminal Causes *Competens Forum*; nor the Judges Competent Judges: every man, and every cause must be tryed *Suo Foro, non Alieno.* So if a Peer be Arraigned in the Kings Bench. And for this upstart unpresidented High Court, it is no Court of Judicature at all, as being erected without lawfull Authority, consisting of Incompetent Judges; no Records belonging to it, and tending to dis-inherit, and dis-franchise all the People of *England*

land, and to murder them. (*You may not diſpute the Juriſdiction of the Supream and higheſt Authority of* England; *from which there is no appeal, the Votes of the Commons of* England *aſſembled in Parliament, is the Reaſon of the Kingdom.* Oh Britiſh irrational Kingdom! Where 40 or 50 Anabaptiſtical Members, the Dregs and Lees of the Houſe of Commons, after all the beſt and ſincereſt (7 parts of 8) had been racked and purged out at the Bunghole, by *Cromwel the Brewer*, and *Pride* his *Drayman*, ſhall be called the Reaſon and Law of the Land. This confirms the truth of what King *Charles* I. Objected to the Parliament (whereof I have formerly ſpoken (*That they diſpoſed of the Subjects Lives and Fortunes by their own Votes, againſt the known Laws of the Land.* But that there ſhould be no Appeale to their declared Soveraign Lord the People, from their ſubordinate Truſtees in Parliament is wonderfull; conſidering that in all Governments the laſt Appeal is ever to the Higheſt and moſt abſolute power. But it may be they will be the Peoples Truſtees in ſpight of their Teeth, and by the power of the Sword; and ſo free themſelves from rendring any account of their Stewardſhip.) *You may not Demurre to the Juriſdiction of the Court, If you doe, they let you know, that they over-rule your Demurrer, and affirm their own Juriſdiction. Reaſon is not to be heard againſt the higheſt juriſdiction, the Commons of* England *make a direct and poſitive Anſwer, either by denying or confeſsing, and put in immediatly an iſſuable Plea,* Guilty, *or* Not Guilty *of the Charge, or we will record your Default and Contumacy, and by an implicite confeſsion, take you Guilty, pro confeſſo, and immediatly give judgement againſt you.* This (as I told you before) is it that blanches the Deer into the Toile, but God de-

liver us from that Jurisdiction that is too high to hear Reason: and that overrules Demurrers before they be heard.) I have told yon as much of the proceedings of this Court as the Novelty, Obscurity, uncertainty and confusion thereof will give me leave. Let me now by way of overplus, give you the great dangers and Slavery that will betall all sorts of People if they tamely & cowardly suffer themselves to be deprived of their antient, Legal Trials by Enditement and Juries of the Neighbourhood: then which the whole world cannot boast of a more equall way, and suffer their Lives Liberties, Estates and Honours to be subject to an Arbitrary Extrajuditial coventicle of blood, (*Cromwels New Slaughterhouse*) which hath neither Law, Justice, Conscience, Reason, Presidents or Authority Divine or Humane, but only the pretended Parliaments irrationall votes, & the power of the Sword to maintain it, which will prove a Citadell over their Liberties, a Snare to their Estates, a Dead fall to their lives, and a Scandal to their Honours and Families, if not timely opposed.

1. *By the Law the Enditement must specifie what the Treason is, and against what Person committed*; *As, against our Soveraign Lord the King, his Crown and Dignity.* But in the said Articles of Impeachment it is alleaged that the Treason is committed against the present Government; or against the Keepers of the Liberties of *England*; but in this dead-water our turning Tide between the Old Regal, and this New unknown Government; no man knows how to doe, look or speak for fear of contracting the guilt of an Interpretative Treason, upon the said two Statutes for New Treasons, and before this boundlesse, lawlesse New

Court.

Court. And *to say that Treason is committed against a Government*, in abstracto, *is non-sence; it must be said that Treason is committed against the Governors in* Concreto, *naming them.* For their being *no Treason without Allegeance*; And *Allegeance being a personal Obligation, must be due from a certain known Person, to a certain known Person or Persons.* And therefore *the Keepers of the Liberties of* England *not being yet made particularly known to us, who they are, or where to be found, or what their power, Duty or Office is; and being not tyed by any set Oath, to deal well and truly with the People, (as Kings are by their Coronation Oath, for if the stipulation be not mutual, the People are Slaves, not Subjects*: Since the Duties of Allegeance and Protection, Obedience and Command being reciprocall (as they must needs be, the Parl. having declared the Supream power to be in the People; they must not govern them *Mero Imperio* (by lawless Votes) like Turkish, Tartarian, and Russian Slaves. *I cannot owe nor perform Allegeance to these, Individua vaga the Keepers or Goalers of our Liberties*; not to an Utopian Commonwealth, and without Allegeance no Treason: for in all enditements of high Treason it must be alleged, *That the Accused did (Proditorie) perpetrate such and such Crimes; Contra debitam Allegantiam suam.* And the word *(Proditorie) signifies the betraying of a Trust*: According to the Proverb, In Trust is Treason. *Now where there is no profession of Allegeance, there is no Acceptance of a Trust, no man can trust me against my will.* I was born under a Regal Government, have read the Stat. Recognition, 1 Jac. have taken (as well as others) the Legall Oathes of Allegiance, Obedience and Supremacy to the King his *Heirs* and *Lawfull Successors*: imposed upon me by lawfull Authority, and from which no

power on Earth can absolve me: and so much I attest in the Oath of Supremacy. And how I should now come (after the New Moduling of the Parliament and Kingdom by Souldiers) to owe Allegiance to *Cromwell* the *Brewer*, *Scot* the *Brewers Clark*, *Bradshawe* the *Murderous Petty fogger*, Sir *Henry Mildmay* the *Court Pander*, and *Projector Holland* the *Linckeboy*, *John Trenchard* that packed a Committee (in which he was a Member) and voted to himself 2000lb. *Love* the super-inducted Six Clerk, or any other of that Self-created Authority, let them sheath their swords and tell me.

See the Additional Postscript at the Latter end of this Book.

2. *An Enditement must certainly allege the offence committed, in respect of the Matter, Time, Place, Persons and other Circumstances:* But in these Articles of Impeachment they tie themselves to no such certainties; Whereby the Accused knowes not at what ward to lie, nor how to make his defence. The Circumstances of Time, Place, and Persons, being the assured Testimony of all Humane Actions. This Lawlesse Court leaves him in a vast Sea of Troubles, without Polestarre, Card or Compasse to steer by: The Arbitrary Opinions of this Court, declared upon emergent Occasions, being a false hearted *Pilot* to him, *These Judges not being of Counsel with the Prisoner, as our Legal Judges are, who swear to do Iustice according to the Law.*

3. *By the Law, any learned man that is present, may inform the Court, for the benefit of the Prisoner, of any thing that may make the proceedings erroneous.* Cooks 3. Instit. pag. 29. But the whole Proceedings of this Court, their Meeting and sitting being erroneous, here is no room left for Admonition, To take away their errours, is to take away the Court.

4. Cookes

4. Cookes 2. Inſt. pag. 51. expounding the 26 chap. of *Magna Charta*, hath theſe words, *All Commiſsions ought to be grounded upon the Law of* England, (not upon the Votes of the Houſe of Commons) *and to contain this clauſe in them. To do what is juſt according to the Laws and Cuſtomes of* England, (not to execute the ſeveral powers given them by the Act *26 March*, 1650.) and a little further he ſaith, againſt this Antient and Fundamental Law, I find an Act of Parliament made 11 *Hen.* VII. chap. 3. That as well Juſtices of Aſſize, as Juſtices of Peace, without any finding or preſentment by the verdict of 12 Men, upon a bare information for the King, before them made, ſhould have full power and Authority by their diſcretions, to hear and determine all Offences and Contempts committed, or done by any Perſon or Perſons, againſt the Form, Ordinance or effect of any Statute made and not repealed; ſaving Treaſon, Murder, or Felony. By colour of which Act ſhaking this Fundamental Law, it is not credible what horrible Oppreſſions and Exactions, to the undoing of infinite number of People, were committed by *Empſen* and *Dudley*, Juſtices of the Peace throughout *England*. And upon this unjuſt and injurious *Act, a New Office was erected (as commonly in like caſes it falleth out) and they made Maſters of the Kings Forfeitures, (I hear ſuch another Office will be erected, when the Novelty of this wonderfull H Court is leſſened, and the yoak thereof throughly ſetled upon the Peoples Necks.* Yet obſerve the ſaid Act. 11 H. VII. c. 3. went not ſo high as to Treaſon, Murder, and Felony.) But by the Star. 1 H. VIII. c. 6. the ſaid Act 11 H. VII. was repealed, and the reaſon given, For that by force of the ſaid Act it was manifeſtly known; That many ſiniſter & crafty, forged & feigned Infor-

Information had been purſued againſt many of the Kings Subjects, to their great damage, and wrongfull vexation. The ill ſucceſſe hereof (ſaith *Cook*) and the fearfull end of theſe two Oppreſſors, (who were Endited, and ſuffered for High Treaſon for all the ſaid Act 11.H.VII. paſſed in a full and free Parliament. Cooks 3. Inſt.p.208.) *Should admoniſh Parliaments that inſtead of this ordinary and pretious Tryal by the Law of the Land, they bring not in Abſolute and Partial Tryals by Diſcretion.* And in his 4 Inſt. pag. 41. *Cook* ſaith, *Let Parliaments leave all Cauſes to be meaſured by the golden and ſtreightned wand of the Law, and not the uncertain and crooked cord of Diſcretion: for it is not almoſt credible to foreſee, when any Maxime or Fundamental Law of the Land is altered, what dangerous inconveniences will follow; as appears by this unjuſt and ſtrange Act.* 11 Hen. VII. chap. 3.

5. *This Parliament alwayes declared, they bore Armes againſt the King, in Defence of the Laws, Liberties and Properties of the People.* This way ranne the whole current of their Declarations. *And they alwayes reckoned Magna Charta, the Petition of Rights and Tryals by Juries, the Chief and moſt Fundamental of all our Laws, See their* 1. *Remonſtrance: Therefore in their* 7. *Articles againſt* Strafford, *They charged him with high Treaſon, for giving Judgements againſt Mens Eſtates, without Tryals by Juries. Much aggravated by Maſter St.* John's *in his aforeſaid Argument againſt* Strafford. And for the better preſervation of Legal Tryals by Juries, it is provided in the Bill of Attainder of *Strafford*, that the caſe of the ſame Earl ſhould not be uſed as a Preſident in ſucceeding times. *And in two of this Parliaments late Declarations, 9. Feb. and* 17. *March*, 1648. *The Parliament promiſeth,*

To

To preſerve and keep the Fundamental lawes of the Land, for preſervation of the Lives, Liberties and Properties of the People, with all things incident thereto. Now to erect an Arbitrary, Lawleſſe High Court, to give Judgement againſt mens lives and Eſtates, and attaint their blouds, without Enditement found by a Grand Jury, and a Triall by a Jury of twelve ſworn men de vicineto; *is a farre fouler breach of Truſt in them againſt their Soveraign Lords the People, that all they Charged the King withall; and a farre Higher Act of Tirannny and Injuſtice then either the late King; or Empſon and Dudley or Strafford were accuſed of.*

But if they alledge: They do not put down Juries in generall, but only in ſome particular mens caſes, and upon Neceſsity. *I anſwer*, That we are all born Freemen of England alike; That onr Ancient known Lawes, Law Courts and Trials by Juries are our Inheritance equall alike to all. And one Party or Part of the People ought not to be diſherited, disfranchiſed or forejndged no more then another. No man can be ſaid guilty of any Crime until he be legally convicted and ſentenced: the Law muſt firſt go upon him and condemn him. Ubi lex non diſtinguit, non eſt diſtinguendum. If we do not live all under one Law and form of Juſtice, we are not all of one Commonwealth. See the aforementioned Gentlemans argument, *againſt the ſpekial Commisſion of the Court of York*, For *Neceſsity*: Our preſent power is under none, but the fears and Terrors of their own guilty conſciences, No apparence or probability of any enemy by their own confeſsion: nor can they plead in their excuſe a Neceſsity which they have brought upon themſelves. I know *ſome Kings have, de facto, uſed the Animadverſion of the Sword to cut off ſuch powerfull and daungerous perſons as could not ſafely be called to account by the Law; ſo did* Joab, Adonijah, &c. *For which the rule is. Neminem adeo eminere debere, ut Legibus interrogari nequeat: qui Jus*

 aquum

æquum ferre non potest, in eum vim haud injustam fore. No man ought to advance himself above the power of the Law: he that will not submit to equal Right, if he be cut off by violence; suffers no wrong: But this is to be understood of the eminency and greatnes of the person, not of the greatnes of the Crime; whereof no man is to be forejudged; because a great crime may prove a great calumny, until a legal trial have adjudged it. But there is no person in *England* so eminent for power or authority, but that the least of *Bradshaws* ban dogs can drive him to the slaughterhouse and make him offer his throat to *keeble*. Therefore *Animadversio Gladii*, if at any time lawful, is now unlawfull. To make great examples, upon men of little power, is great Injustice. But the way of this Court, is not *Animadversio per Gladium*. It is a mocking, a counterfeiting, and adulterating and alchimisting of Justice: it is to falsifie her weights and ballance, and steal her Sword to commit Murder withall.

See Col. Andrewes 3. Answers.

6. By the known Lawes Matter of Fact is entrusted to the Jury; Matter of Law to the Judges; to prevent all errors, combinations and partialities. The Judges are sworn to do Justice according to the Law; The Jury are sworn to find according to their Evidence. But in this high Court the commissioners or Judges are all packed, confining men, chosen by and out of one party, to destroy all of a different Party. They usurp the office of Judges not being sworn to deal well and lawfully with the people (as by the said *Stat.* 18. *Ed.* III.) nor to do justice according to the law. But only to execute powers given by the said *Act.* 16. *Mar.* 1650. And they arrogate (as Jury men) to be Triors of the Fact, without being sworn, To find according to Evidence. So that they are judges, juries & parties, and (for ease of their tender consciences) without any

any Oath of Indifferency. A moſt excellent compendium of oppreſſion. They may go to the Devil for Injuſtice, & not be for ſworn. Great is the priviledge of the Godly.

7. The priſoner may except againſt his Jurers, either againſt the Array, if the Sheriffe or Baily impannelling the Iury, be not wholly diſingaged and Indifferent; both to the cauſe, and to the parties, proſecuting and proſecuted. Or againſt the Poll, he may Challenge 35 peremptorily; and as many more as he can render Legall Cauſe of Challenge for. As for defect of Eſtate, or other Abilities, or for partiality, Diſaffection, Engagement, Infamy. But this Array of Jurymen-Judges (A Medley ſo new we know not how to expreſſe it, though picked and empanelled by an Engaged Remainder of the Commons, and obnoxious to all exceptions, muſt not be Challenged, their backs are too much galled to endure the leaſt touch. Take heed you ſcandall not the Court (cries Mr Atturny) See Col. Andrews 3 Anſwers,

8 Many Exceptions in a Legall Triall, are allowed againſt Imperfections, Uncertainties & Illegallities in the Bill of Enditement, for the advantage of the priſoner. But no Exceptions are allowed againſt theſe Illegall Articles of Impeachment; which are made uncertain, intricate, obſcure & ambiguous purpoſely to puſsle confound and entangle the Reſpondent.

9 *By the Law a Bill of Enditement muſt have two full & clear lawful witneſſes to every conſiderable Matter of Fact: both as finding the Bill and at the Tiall*: Cooks 3. Inſtit. pag. 25. 26. And *Probationes debent eſſe luce clariores.* proofes muſt be as cleere as the Sunne: not grounded upon Inferences, preſumptions, probabilities. And the priſoner muſt be *Prorablement Attaint* ſaith the Stat. 25. Ed. III. chap. 2. Cookes 3. Inſtit. pag. 12. The word

Where there is but one witnes It ſhall be tried by combat before the Earle Martiall. Cook Ibidem.

(*A*tteinted)shews he must be legally proceeded with: not by absolute power as formerly had bin used(and as is now used by this bloudy High *C*ourt)But before these Slaughter-men of the High *C*ourt,all manner of witnesses, Legall or Illegall, one or two, sworn or not sworn, or apparently forsworn and suborned; and all proofes cleere or not cleere are sufficient. The prisoner is sent thither fore-doomed, and hath his deathes Mark, his fate in his forehead.

10 The said *A*ct 26. March 1650. *C*arries two faces under one hood; and looks backwards as well as forwards. To facts precedent as well as Subsequent the said *A*ct, *C*ontrary to the Nature of all Laws, whose Office is to prohibite before it punish, in vain before it strike Where S. paul defineth sin to be The breach of a *C*ommandement, or Law. I had not known sin but by the Law. The Law must therefore be precedent to the Offence. But these *A*cts are not Laws to admonish, but Lime-twigges and *T*raps to ensnare & catch men. See *C*ol. *A*ndrews 3 *A*nswers at the Later end of this Book.

Fourthly and lastly I am to consider. To what end & purpose this New invented High *C*ourt is constituted & appointed? *C*oncerning which see a Letter dated 6 Iune 1650. *Stilo veteri*,from the Hague,(supposed to be Walter *S*trick-lands,the parliaments *A*gent there) as I find it in Walter Frosts Brief Relations of some Affairs and Transactions &c. from *T*uesday Iune 11. to Iune 18. 1650. wherein the Epistoler hath these words. *O*ne peece of the cure(viz: of the dangers that threaten your New *S*tate)must be phlebotomy,burthen you must begin before Decumbency, and then it will be facile to prevent danger, &c. *T*hey are heere most of all affraid of your *H*igh *C*ourt of Iustice, which they doubt

doubt may much discourage their Party, they wish you would not renew the power thereof, but let it expire: then they think that after Michilmas they may expect assistance with you. And indeed that Court is of almost as much use to you as an Army: and will prevent the rising of as many enemies, as the other will destroy, onely you must be sure to execute Justice there with all Severity. A few of the first stirrers taken away by the power thereof, without respect to cousen or Conntrey will keep all the rest quiet. But *whosoever that Court condemnes, let them be as already dead, &c. But let them be most free in cutting the vena Caphalica (that is the Presbyterian Party) for the Basilica* (or Royall party) will be latent. The *Median* (or Levellors) would be spared as much as may be, that the Body be not too much emaciated. Besides the blond is most corrupt in the Cœphalicks (*or Presbyterians*) and is the very *causa continens* of your disease. You need not fear to take freely of this veine, &c. Heere you see this State-Mountebancke gives you the use and Application of this corrasive. (the High Shambles of Justice) so fully that I shall not need to comment upon it. And in the Latter end of a Letter from *Cromwell*, dated from Dunbar 4. Sept. 2650. (as I find it in *Politicus*) speaking of his new purchased victory over the Scots. *Cromwell* saith; *God puts it more and more into your hands to improve your power*, (viz. your absolute Anthority) *we pray own his People more*, (That is; The Army) *they are the Chariots and Horsemen of Israel* (of the Kingdom of the Saints) *disown your selves but own your Authority* (which you enjoy under the Protection of the Army, your Lords Paramount) *and improve it, to Curbe the proud and the Insolent*, &c. (That is all men of

different Opinions & Parties from them; that will not engage to be true & owe Allegeance to the Kingdom of the Saints, and reſign their Lawes, Liberties and Properties to their luſts and wills) That I have not miſconſtrued the contents of *Cromwells* miſticall letter will appear by *a Diſcourſe in the ſame Politicus* Numb. 17. from Thurſday Sept. 26. to Octob. 3. 1650. Where (according to his Cuſtome) delivering forth State Oracles to the People: He tells them in plain Engliſh. *That after the Confuſion of a Civill war, there is a Neceſſity of ſome Settlement, and it can not in reaſon, be imagined, (the Controverſy being determined by the Sword) that the conquerers ſhould ſubmit to the conquered,* though more in number then themſelves. Nor are they obliged to ſettle the Government again according to the former Laws; & Conſtitutions, but may erect ſuch a form as they themſelves conceive moſt convenient for their own preſervation. For after a Civil war the written Laws (viz: eſtabliſhed Laws of the Nation) are of no force, but only thoſe which are not written, (And a little after) The King having by Right of war, loſt his ſhare and intereſt in Authority, & power, being conquered, *By Right of war the whole muſt needs reſide in that part of the People which prevailed over him:* There being no middle power to make any claim, and ſo *the whole Right of Kingly Authority in England being by Military Deciſion reſolved into the prevailing Party, what Government ſoever it pleaſed them to erect, is as valide de Jure, as if it had the conſent of the whole Body of the People.* That he ſhould affirm That after a Civill war the Eſtabliſhed Laws ceaſe: is ſo groſs a piece of Ignorance that there is hardly any Hiſtory extant but confutes it; After our Barons war & the Civile warre betweene *York* and *Lancaſter*, Our Eſtabliſhed Lawes

Lawes flouriſhed; ſo did they after the Norman Conqueſt. How many Civile wars in France have left their Lawes untouched? that of the holy league laſted 40. yeares. *Belgia* keepes her Lawes maugre her inteſtine warres; What is now become of the Parliaments declared Supreme power and Soveraigne Lord the People, the Originall and Fountaine of all juſt power? are they not all heere proclaimed Eare-boared ſlaves for ever. But I had thought that an Army of Mercinary Saints raiſed, paied and commiſſioned by the Parliament to defend the Religion, Lawes, Liberties and Properties of the People; and the Kings Crown and Dignity, according to the Proteſtation and Covenant: and the Parliaments Declarations, would not have made ſuch Carnall and Hypocriticall uſe of their victories gotten by Gods Providence and the Peoples Mony, as to deſtroy our known Lawes, Liberties and Properties, and claime by conqueſt, and impoſe their owne luſts, for Lawes, upon us, Thereby rendering themſelves Rebels: againſt their God, their King and Country. Nor was it ever the State of the quarrell between the King and Parliament whoſe Slaves the People ſhould be? Or whether we ſhould have one King, Governing by the knowne, eſtabliſhed Lawes? or 40 Tyrants Governing by their own luſts and Arbitrary votes, againſt our written Lawes? Nor can the ſucceſſe make a conqueſt juſt, unleſſe the cauſe of the war were Originally juſt, and the proſecurion thereof juſtly managed. As 1. To *vindicate* a luſt Claime and Title. 2. *Ad res repetendas.* To recover Dammages wrongfully ſuſtained. 3. To repell an Injury done to your ſelf, or to your Ally in league with you.

The

The ultimate end of these wicked Endeavors is, To establish and cement with the bloud of their Adversaries, the Kingdom of the Brambles or Saints; already founded in bloud. By cutting off all such by their said new Acts of treason and High Court of Justice, as will not bow their Necks to their iron yoak. Which appears more clearly in an *Additionall Act giving further power to the said High Court,* (dated 27. Aug. 1650.) *To hear and determine all Misprisions or concealments of Treasons* mentioned or contained in any of the said Articles or Acts of Parliaments: And to inflict such punishments and award such execution, as by the Lawes and Satutes have been, or may be, inflicted. *This Law (if I miscall it not) considering how they have multiplied Treasons by their said 3 New Statutes,* 14. May 17. July 1649. *and* 26. March 1650. *Whereby bare words without Act are made High Treason; Contrary to those well approved Statutes* 25. Ed. III. chap. 2. 1. Hen. IV. chap. 10. 1. Ed. VI. chap. 12. I. Mariæ chap. 1. Cooke 3. Instit. saith. *That words may make an Heretick, not a Traitor,* Chap. High Treason. *And the Scripture denounceth a wo to him; that maketh a man an Offender for a word) is one of the cruelest, and most generally dangerous and entrapping that ever was made. For hereby all Relations; Husband and Wife; Parents and Children; Brothers and Sisters, Masters and Servants are all enjoyned to be Informers against, and accusers of one another (which is to take upon them the Devils Office (and be,* Accusatores Fratrum *) for light and vain words spoken oneiy in Passion or ignorantly: or else they fall into the Jaws of this all-devouring Court* (from whence, no more then from Hell, there is no Redemption) *for Misprision of Treason: the Penalty whereof is losse of Liberties and Lands for life; and of Goods for ever.*

Who

Who can imagine lesse hereby, but that *our Statists intend to raise a yearly revenue by this Court, by Forfeitures and Confiscations: and to erect an Office of Master of the States Forfeitures: like Empsons & Dudleis in* Hen. VII. *time aforesaid.* And so continue this Court, to weed out the ancient Inhabitants *Cananites* and *Amalekites*. The said additional Act, 27. Aug. 1650. concludes, That the said high Court shall not examine, try or proceed against any Person other then such as shall be first by name appointed by the Parliament or Counsel of State. It should seem the Parliament and Counsel of State supply the want of a Grand Enquest; and their Appointment is instead of a Bill of Enditement found and presented. *As assuredly as The High Inquisition was erected in Spaine by Ferdinando and Isabella to extirpate the Mahometan Moores: And the said Counsel of Bloud in the Low Countries, by the Duke D' Alva to weed out the Lutherans, Calvinistes and Anabaptistes. So in this high Court set up in England to root out the Royallists, Presbyterians and Levellers; and all who will not wholly concurre with our Independents in Practise and Opinions,* As will manifestly appear when their work is done in Scotland, which will soon be effected: the more zealous Scots being now as ready to sell their Kingdome; as they were formerly to sell their King.

10. Dec. 1650. a New Act passed, for establishing an High Court of Iustice in Norfolke, Suffolke, Huntington, Cambridge, Lincoln and the Isle of Ely, &c. And so by degrees this gangrene shall enlarge it self all the Kingdome over.

I Conclude therefore upon the Reasons aforesaid. That because the Commissioners or Judges are not sworn to do Iustice according to the Lawes: and are Parties pre-in-gaged (as well as their Masters, and Pay-Masters, that named them) ignorant men, and of vild and base professions uncapable of places of Iudicature, Necessitous Persons and some of them Scandalous; and the High Court it self hath neither

Lawe, Presidents, nor any Just Authority for Constituting thereof or the Judges therein. And all proceedings before them are direct Contrary to *Magna Charta*, the Statut. 25. Ed. III. chap. 2. The Petition of Right and all other known and established Lawes, and the continuall practise of our Nation; and (in many Points) Contrary to the Law of God and the dictates of Right Reason, *That these Commissioners are Incompetent Judges; Their Court an Extrajudicial Conventicle, tending to disinherit, disfranchise and enslave all the Freemen of the Nation; & all Proceedings before them are void and Coram non Judice*, See Col. Andrewes 3. Answers, The said High Court of Justice to be a meer bloudy Theater of Murder and Oppression. It being against common Reason, and all Lawes Divine and Humane, that any man should be Judge in his own Cause, *Neminem posse in sua Causa Judicem esse*. Is The Rule in Law. *But this Parliament and Counsell of State know they cannot establish and confirm their usurped Tyranny, (The Kingdome of the Saints,) eat up the People with Taxes, and share publick Lands, Offices and Money among themselves; enslave the Nation to their Lawes, wils and Pleasures, but by cutting off the most able and active men of all opposite Parties by some such expedient as this Arbitrary lawlesse High Court is. The old Legal way by Juries: (being found by John Lilbourns Trial) to be neither sure enough nor speedy enough to do their work. A Butcher Row of Judges being easier packed then a Jury who may be challenged. So that it fareth with the People of England, as with a traveller fallen into the hands of thieves. First they take away his Purse, and then reserve themselves, they take away his life. So they Rob him by Providence. And then Murder him by Necessity, and (to spring in their Third Insisting Principle) they may alleadge, They did all*

this upon Honest Inventions; to enrich the Saints and rob the Egyptians. With these 3. Principles they Justify all their Villanies. Which is an invention so merely their owne. That the Devill must acknowledge: They have propagated his Kingdome of Sinne and Death more by their Impudent Justifications, then by their Turbulent Actions.

An additionall Postcript.

SInce the Conclusion of the Premises hath happened the Triall of that worthy Knight *Sr. John Stowell* of the County of *Sommerset*: Who having bin often before this Court, hath so well defended himselfe, and wiped off all Objections, and made such good use of the Articles of the Rendition of Excester, that in the opinion of all men, and in despite of their ensnaring Acts for New Treasons, he can not be adjudged guilty of any Treason, Old or New, which was the Summe and Complement of the Charge against him. Wherefore the Court put off his Triall for a longer time, to hunt for New Crimes and witnesses against him. At last came into the Court as a witnes *John Abe*, notwithstanding he is a Party many wales engaged against him. I. *Abe* is a Parliament man; in which Capacity *Sr. John Stowell* bore Armes for the King against him. 2. *Abe* as a Parliament man is one of the Constituters of this Murderous Court and the Judges thereof, and therefore their Creatures (who expect rewards from them) beare a more awfull respect to his testimony, then a witnes ought to have

Lawe, Preſident, nor any Juſt Authority for Conſtituting thereof or the Judges therein. And all proceedings before them are direct Contrary to *Magna Charta*, the Statut: 25. Ed. III. chap. 2. The Petition of Right and all other known and eſtabliſhed Lawes, and the coutinuall practiſe of our Nation; and (in many Points) Contrary to the Law of God and the dictates of Right Reaſon, *That theſe Commiſſioners are Incompetent Judges; Their Court an Extrajudicial Conventicle, tending to diſinherit, diſfranchiſe and enſlave all the Freemen of the Nation; & all Proceedings before them are void and Coram non Judice*, See Col. Andrewes 3. Anſwers, The ſaid High Court of Juſtice to be a meer bloudy Theater of Murder and Oppreſſion. It being againſt common Reaſon, and all Lawes Divine and Humane, that any man ſhould be Judge in his own Cauſe, *Neminem poſſe in ſua Cauſa Judicem eſſe*. Is The Rule in Law, *But this Parliament and Counſell of State know they cannot eſtabliſh and confirm their uſurped Tyranny, (The Kingdome of the Saints,) eat up the People with Taxes, and ſhare publick Lands, Offices and Money among themſelves: enſlave the Nation to their Laws, wils and Pleaſures, but by cutting off the moſt able and active men of all oppoſite Parties by ſome ſuch expedient as this Aobitrary lawleſſe High Court is.* The old Legal way by Jurie: (*being found by John Lilbourns Trial*) *to be neither ſure enough nor ſpeedy enough to do their work. A Butcher Row of Judges being eaſier packed then a Jury who may be challenged. So that it fareth with the People of England, as with a traveller fallen into the hands of thieves. Firſt they take away his Purſe, and then, to ſecure themſelves, they take away his life. So they Robbe him by Providence, And then Murder him by Neceſſity, and (to bring in their Third Inſiſting Principle) they may alleadge, They did all*

this

this upon Honest Intentions; to enrich the Saints and rob the Egiptians. With these 3. Principles they Justify all their Villanies. Which is an invention so meerely their owne. That the Devill must acknowledge: They have propagated his Kingdome of Sinne and Death more by their Impudent Justifications, then by their Turbulent Actions.

An additionall Postscript.

SInce the Conclusion of the Premises hath happened the Triall of that worthy Knight *Sr. John Stowell* of the County of *Sommerset*: Who having bin often before this Court, hath so well defended himselfe, and wiped off all Objections, and made such good use of the Articles of the Rendition of Excester, that in the opinion of all men, and in despite of their ensnaring Acts for New Treasons, he can not be adjudged guilty of any Treason, Old or New, which was the Summe and Complement of the Charge against him. Wherefore the Court put off his Triall for a longer time, to hunt for New Crimes and witnesses against him. At last came into the Court as a witnes *John Ashe*, notwithstanding he is a Party many wales engaged against him. 1. *Ashe* is a Parliament man; in which Capacity Sr *John Stowell* bore Armes for the King against him. 2y. *Ashe* as a Parliament man is one of the Constituters of this Murderous Court and the Judges thereof, and therefore their Creatures (who expect rewards from them) beare a more awfull respect to his testimony, then a witnes ought to have

from Judges. 3ly. It is publikely knowne that *Ashe* hath begged of the house a great a summe of mony out of the Composition for, or Confiscation of Sr. *Johns* Estate. And 4ly. It is knowne to many, That during Sr. *Johns* many yeares Imprisonment *Ashe* often laboured with Sr. *John* to sell unto him for 4000l. a Parcell of Land which cost Sr. *John* above 10000l. promising him to passe his Composition at an easy rate, to procure his enlargement from prison, and send him home in peace and quiet if he granted his desire. But allthough with all their malitious diligence, they cannot find him guilty of High Treason, yet their Articles of Impeachment Charge him in generall Tearmes with Treason, Murder, Felony and other High Crimes and Misdemeaners; and amasse together such a Sozites and Accumulation of Offences as if one faile another shall hit right to make him punishable in on kind or other: such a haileshot charge cannot wholly misse: either they will have life, estate, or both; Contrary to the Nature of all Enditements and Criminall Charges whatsoever; which ought to be particular, cleere and certaine (Lamb: pag. 487.) that the Accused may knowe for what Crime he puts himselfe upon Issue. But this Court (as High as it is) not being Constituted a Court of Recorde: nor having Commission returnable into any Court of Recorde; the Prisoner, and those that are concerned in him, can have no Recorde to resorte to either. 1. To demande a writ of Error, in Case of Erronious Judgement. 2. To ground a plea of Auterfois Acquite, in Case of New Question for the same fact. 3ly. Or to demande an Enlargement upon Acquitall. Or 4ly. To demande a writ of conspiracy, against such as have combined

combined to betray the life of an Innocent man. Whereby it followes ; That this prodigious Court hath power only to Condeme and Execute ; not to Arquite and give Enlargement ; Contrary to the Nature of all Courtes of Iudicature, and of Iuſtice it ſelf: it is therefore a meere *Slaughter Houſe* to Commit Free-State Murders in, without, nay againſt lawe and Juſtice : and not a Court of Judicature ; to Condemne the *Nocent*, and abſolve the *Innocent*. And the Iudges of this Court runne Paralell with their father the Devill ; who is ever the Miniſter of Gods wrath and fury ; never of his Mercy.

The humble Answer of Col. *Eusebius Andrewes* Esquier. To the Proceedings against him before the honorable The High Court of Justice. 1650.

THe said Respondent (with favour of this Honorable Court) reserving and praying to be allowed, the benefit and Liberty of making farther Answer, if it shall be adjudged necessary, offereth to this Honourable Court.

That by the Statute or Charter stiled *Magna Charta*, (which is the Fundamentall Lawe, and ought to be the Standard of the Lawes of England, Confirmed above thirty times, and yet unrepealed.) it is in the 29 Chapter thereof graunted and enacted.

1. *That no Freeman shall be taken or imprisoned, or be disseised of his Freehold or Liberties, or Free Customes, or be outlawed or exiled, or any other wise destroyed. Nor, we shall not passe upon him, but by a lawfull Judgement of his Peeres, or by the Lawe of the Land.*

2. *We shall sell to no man, nor deferre to any man Justice or Right.*

By the Stat. 42 Ed. III. chap. 3. The Great Charter is commanded to be kept in all points; and it is enacted.

That if any Statute be made to the contrary, That shall be holden for none.

By the Act 26 March 1649. entituled, An Act for Establishing an High Court of Justice. Power is given to this Court, To Try, Condemne and Cause Execution of death to be done, upon the

Freemen of England, according to the Major Number of any 12. *of the Members thereof shall Judge to appertain to Justice.*

And thereupon the Respondent doth humbly inferre, and affirm, that *the Tenor of the said Act is diametrically opposite to, and inconsistent with the said Great Charter.* And is therefore by the said recited Stat. 42. Ed. III. to be holden for none.

Secondly, That it can with no more Reason, Equity or Iustice, hold the reputation or value of a Law, (if the said Stat. had not been) then if (contrary to the 2d. Clause of the 29. chap. of *Magna Charta*) it had been also enacted, *That Justice and Right shall be deferred to all Freemen and sold to all that will buy it.*

By the Petition of Right, 3°. Car: upon premising: That contrary to the Great Charter, Trialls and executions had been had and done against the Subjects, by Commissions Martiall, &c. it was thereby prayed, and by Commission enacted. That:

1. *No Commissions of the like nature might be thenceforth issued,* &c.

2. *To prevent least any of the Subjects should be put to death, Contrary to the Laws and Franchises of the Land.*

The Respondent hereupon humbly observeth, and affirmeth: *That this Court is (though under a different Stile) in nature, and in the Proceedings thereby directed, the same with a Commission Martial.* The Freemen thereby being to be tried for life, and *adjudged by the Opinion of the Major Number of the Commissioners sitting, as in Courts of Commissioners Martiall was practised;* and was agreeable to their Constitution: *And consequently against the Petition of Right:* in which he, and all the Freemen of England (if it be granted there be any such) hath and have Right and Interest, and he humbly claimes his Right accordingly.

By the Declarations of this Parliament, Dec. 15. and Ian. 17. 1641. The Benefit of the Lawes, and the Ordinary Course of Iustice are the Subjects Birthright.

By

By the Declarations 12. July 16. Octob. 1642. *The Prosecutions of the Lawes, and due Administration of Justice, are owned to be the Justifying cause of the warr, and the end of the Paliaments Affairs managed by their swords and Councells, and Gods curse is by them imprecated, in case they should ever devime those ends.*

By the Declaration 17. April 1646. Promise was made not to interrupt the Course of Justice, in the ordinary Courts,

By the Ordinance or votes of Non Adresses, Jan. 1648. It is assured, *That, Though they lay aside the King; yet they will Governe by the Lawes; and not interrupt the Course of Justice, in the Ordinary Courtes thereof.* *

And therefore this Respondent humbly averreth and affirmeth. That *the Constitution of this Court, is a Breach of the Publicke Faith of the Parliament exhibited and pledged in those Declarations and votes to the Freemen of England.*

And upon the whole Matter, the Respondent (saving as aforesaid) doth affirm for Lawe and claimeth as is Right. *That*;

1. This Court in defect of the validity of the said Act; by which it is constituted, hath no power to proceede against him, or to presse him to a further Answer.
2. That by vertue of *Magna Charta*, The Petition of Right, and the before recited Declarations, he ought not to be proceeded against in this Court; by an Ordinary Court of Iustice; and to be tried by his Peeres.

* They forget the 2. Declarations 9. Febr. 17. March 1648.

And humbly prayeth that this his present Answer and *Salvo* may be accepted and registred.

Eusebius Andrewes

The Second Answer of Col. *Eusebius Andrewes* Esquier. To the honorbale The High Court of Justice. 1650.

THe said Respondent (which the Favour of this Honorable Court) reserving and praying to be allowed the Benefit, and Liberty of making further Answer, if it shall be Necessary. In all humblenes for the present answer offereth to this Honorable Court.

That by the Letter and genuine sence of the Act entituled An *Act* for establishing an high Court of Justice. *The said Court is not qualified to try a Freeman of England* (such as the Respondent averreth himself to be) *for life in Case of* Treason For that:

1. *The said Court is not constituted a Court of Recorde; neither hath Commission returnable into a Court of Record,* So that,
1. *The State cannot upon Record* (and but upon Record cannot at all) *have that Account of their Freemen, which Kings were wont to have of their Subjects, and States exact elsewhere at the hands of their Ministers of Justice.*
2. *The Freemen, and those who are or may be concerned in him, can have no Record to resort to, by which to preserve the Rights due to him and them respectively.* Viz.
   1. *A writ of Errror*, in case of erronius Judgement.
   2. *A plea of Auterfois acquit*, in case of new question for the same fact,
   3. *An Enlargement* upon acquitall.
   4. *A writ of Conspiracy* not to be brought untill Aquitall, against those who have practised to betray the life of the Respondent.

The

1. *The writ of Error is due by Presidents.*

Paschæ 39. Ed. III. John of Gauntes Case. Rot. Parliament 4. Ed. III. Num. 13. Count de Arundells Case. Rot. Parliament 42. Ed. III. Num. 23. Sr. John of Lees Case.

2. *Auterfois Acquit* appears by:

Wetherell and darleis Case. 4 Rep. 35. Eliz: Vaux his Case. 4. Rep. 33. Eliz:

3. *The Enlargement* appeares by:

Stat. 14. Hen. VI. chap. 1. Diers Reportes fol. 121. The yeare Booke of Ed. IV. 10. fol. 19.

4. *The writ of Conspiracy*, by:

The Poulters Case. 9. Rep. fol. 55.

This Court is to determine at a day; without Account of their Proceedings: and have power to Try, Iudge and Cause Execution; but not to acquite or give Enlargement. So that the Nocent are thereby punishable; the Injured & betraied not vindicable. Which are defectes incompatible with a Court of Iustice; and inconsistent with Iustice it selfe; and the Honor of a Christian Nation and Commonwealth.

2. *The Members of this Court are by the said Act directed to be sworn.*

1. *Not in Conspectu Populi*, for the Freemans satisfaction.
2. *Not in words of indifferency* and obliginge in equality.
3. *But in words of Manifest Partiality.*

Viz:

You shall sweare; That you shall well and truly, according to the best of your skill and knowledge, *execute the severall powers given you by this Act.*

1. *If the Court be Triers & Judges too, it is humbly offered by the Respondent, That it is but reasonable; That they should be sworn as Triers; in the sight of the Freeman, who shal be upon his Trial,*
2. *And; That as Iustices of Oier & Terminer,* (They being authorised to heare & determine by the words of the Act) *They should take an Oath, such as is usuall & equall, set downe* Ed. III.

Viz: *You shall sweare, That well and lawfully you shall serve our Lord the King, and his People in the office of Justice, &c. And that you deny to no man Common Right.*

3. Or that this Court (taking Notice of such High Matters as Treason, upon the Guilt whereof the Freemans life depends) should take an Oath (at least) as equall as a Justice of the Peace, Daltons Just. of Peace, fol. 13. the words are.

I *A.B.* do swear that I will do equall Right, *&c.* according to my best wit, cunning and power, after the Lawes and Customes of the Land, and the Statutes thereof made, *&c.*

4. *If the Court will be Judges and Triers too: (for they have power given them to Conclud the Freeman, by the Opinion of the Major Number of twelf holding some resemblance (but not a equall difference) with the verdict of a Jury.) It were but reasonable that they should take an Oath Correspondent to that usually administred to Jury men.* The words are. You shall *well and truly Try, and true Deliverance make, betweene the Keepers of the Liberties of England, and the Prisoner at the Barre, according to your Evidence.* So help you God, &c.

5. When this Court (as it is now constituted) hath condemned a Freeman, by applying their skill and knowledge to the power given them, whether justly or not; the Oath injoyned them by the Act 26. March 1650. is not broken, Litterally; as to be exactible by man. Though God will have a better Account.

And therefore upon the whole Matter premised: The Respondent (saving as before) averreth for Lawe and Reason; That this Court by the words of the Act Constituting it; is not qualified, (in respect of the objected defects.) To passe upon him for life in case of Treason. And prayes this his 2d. Answer may be received, with the Salvos and Registred.

Eusebius Andrewes.

The Third Answer of Col. *Eusebius Andrewes* Esquier, To the Honorable, The high Court of Justice 1650.

THe said Respondent (with favour of this Honourable Court) reserving and praying to be allowed, the benefit and Liberty of making farther Answer, if it shall be necessary, in all humbleness for present Answer offereth to this Honorable Court.

1. That it is his Right (if he admit this Court to be duly, and legally established, and constituted as to their being a Court) To be tried by his Peeres; men of his owne condition and Neighbourhood.

2. *That it is within the power of this Court, by the Letter of the Act* 26 March 1650. *Or (at least) not repugnant to the Act; To Try him by such his Peeres*, &c.

3. *That it is his Right to be tried only so*, appeares by:

Magna Charta chap. 29.
25. Ed. III. chap. 9.
28. Ed. III. chap. 4.
42. Ed. III. chap. 3.
25. Ed. I. chap. 1. and 2.
25. Ed. III. chap. 2. and 4.
37. Ed. III. chap. 18.

By all which this Right is maintenable; *And the Proceedings contrary thereunto will be held for none, & to be redressed and erronious.*

So that. *If the Lawes and Courtes were not obstructed in the cases of some sort of Freemen of England, the whole proceedings contrary to these Lawes without a Jury of his Peeres, were avoidable and reversable by writ of Error, as appeares by the Presidents vouched in the Respondents* 2d. *Answer.*

3. That it is in the Courtes power, To try the Freeman, & consequently the Respondent, by a Jury of his Equalles; The Court is humbly desired to consider the words of qualification.

1. *The Court is authorised; To heare and Determine: and so* (if at all Commissioners) *then Commissioners of Oier & Terminer, and such Commissioners, in their naturall Constitution, and Practicall Execution, do proceede against Freemen according to Lawe by a Iury of their Peeres,* and not otherwiser

2. *Authorised to proceede to Triall, Condemnation and Execution: But not restrained to the matter limitative:* As, *to Triall by the Opinion of the Court, as Triors,* Nor, *exclusive,* As, *to Triall per Pares. But is left in the Manner, as in the Iudgement it selfe,* To *the Opinion of the Major part of* 12. *& if they shall thinke fit to try by a Iury, it will be no offence against the Act, their being no prohibition to the contrary.*

And though this Respondent insisteth upon his said Right, consisting with the Courts said power, and the more to induce the Court to graunt him his said Right; *He humbly representeth the wrong don to himselfe, and in him to the Freemanzy of England, in the following Particulars, against their just Rightes depending upon such Trialls to be allowed or denied,*

1. *Challenges to his Triors Peremptory, or with cause of Challeng.*
2. *Seeing, heering and Counter-questioning the witnesses* for cleering of the Evidence, *in matter of Fact* and *Circumstance.*
3. *The being convicted or acquitted by a Full, and fully consented verdict.*

To all which benefits as his undoubted Right, and the Right, of all the Freemen of England; the Respondent maketh claime, by these Reasons, Lawes and Presidents following.

1. *The*

1. *The Benefit of Challenges by the learning of Stanford* in his Pleas of the Crown, Title Challenge fol. 150. To Challenge 35. without reaſon ſhewed; and with Reaſon ſhewen, without Number. Adjudged 32. Hen. VI. in Poinings caſe, abriged by Fitzherb: Tit. Challenge, fol. 26. allowed in Hillary 1. Iac. to Sr. W. Rawley and Brookes.

2. *To the hearing and queſtioning the value and weight of the witneſſes.* The Lawes are plain in Stanfords pleas of the crowne, fol. 163. 164. . Stat. 1. and 2. of Phil. and Mary, chap. 10. 11. 1. Ed. VI. chap. 12. Cookes 3. Inſt. pag. 12. upon the words in the Stat. 25. Ed. III. cap. 2. (Provablement atteinte) *Becauſe the puniſhment was heavy the proof muſt be punctuall, and not upon preſumptions or Inferences or ſtrains of wit, nor upon Arguments ſimili, or Minori ad Majus*, &c. But upon good and clear proofes, made good alſo by the Stat. 1. Ed. chap. 6, 19. Ed. chap. 1.

3. *A verdict by Jury paſſeth from all, or not at all, In this way of proceeding by the Court immediately: it paſſeth by way of concurrence (or voting) this great fault found with the Starre-chamber; and all commiſſionary Courts, proceeding without preſentment and Enditement.*

4. *A verdict paſſeth from a Jury before diſcharged, upon their Affairs of Buſineſſe, or ſupplies of Nature; to prevent corruption by mony or power. In the way of Trial a man may be heard to day, and a Sentence given at leaſure, when the power and will of thoſe by whom the Freeman is proſecuted, be firſt known.* Aud from ſuch a proceeding this Reſpondent can hope little equality; he being (to his knowledge) forejudged allready by them.

And therefore) if at all this Honourable Court thinke fit to proceed to a Triall, of this Reſpondent) he claimes the benefit of *Triall per Pares, by Evidence viva voce.* And reſts on the Opinion of the Court; ſaying (as formerly) Liberty of farther Anſwer, if over ruled.

And praies that this his Anſwer and Salvos may be accepted and Regiſtred.

Euſebius Andrewes.

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W334 [Walker, Clement] 1595-1651.
Relations and observations ... 1648.

W317 [Walker, Clement] 1595-1651.
Anarchia anglicana ... 2d part ... 1649.

W325 [Walker, Clement] 1595-1651.
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